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Sharon E. Rush

University of Florida Levin College of Law

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EMOTIONAL SEGREGATION: HUCKLEBERRY FINN IN THE MODERN CLASSROOM†

Sharon E. Rush*

In this article, I explore emotional segregation and how it functions in the context of Huckleberry Finn for both personal and academic reasons. Recently, I read Huckleberry Finn because it had been assigned to my daughter's middle school class. I was concerned for her welfare because she is Black and worried how the book would affect her. To understand her reactions, I had to understand the controversy surrounding the book, particularly as a White mother. I have reflected quite deeply on the question whether the book is racist. I define "racism" as a belief in the myth of White superiority and Black inferiority, also known as the race precept.¹ I conclude that Huckleberry Finn is racist. Undoubtedly, my conclusion reflects my experience as a White mother of a Black child. Without those experiences, it is possible my whiteness would not have allowed me to understand why and how teaching the book creates emotional segregation.

INTRODUCTION

This paper explores the harm of teaching *The Adventures of Huckleberry Finn*² in public school classrooms. Such harm can be broadly described as emotional segregation, which occurs when society sanctions disrespect. To understand the effects of emotional segregation, compare Toni Morrison's reaction to the novel to that of Ernest Hemingway. Toni Morrison said her 8th grade experience with the book "provoked a feeling I can only describe now as muffled rage, as though appreciation of the work required my

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* Irving Cypen Professor of Law, Fredric G. Levin College of Law, University of Florida Levin College of Law; B.A. 1974, Cornell University; J.D. 1980, Cornell Law School. I am grateful for the summer grant provided by the Levin College of Law. I also am thankful to Jonathan Cohen, Berta Hernandez-Truyol, Christopher Slobogin, and Barbara Woodhouse for their comments, and to Mae Clark for her library assistance. Thanks also to students Shelbi Day, Robert Jacobs, Cecil Rolle, and Alexa Sherr who voluntarily critiqued drafts. Finally, the research assistance of Tysen Duva and Jacob Maeroff is deeply appreciated.

1. A. LEON HIGGINBOTHAM, JR., *SHADES OF FREEDOM: RACIAL POLITICS AND PRESUMPTIONS OF AMERICAN LEGAL PROCESS* 9–10 (1996) ("The precept of inferiority . . . posed an article of faith that African Americans were not quite altogether human.").

2. Citations to *Huckleberry Finn* are to chapters because those are consistent in every edition. Hereinafter in footnotes I refer to the book as HF.

complicity in and sanction of something shaming.”³ Ernest Hemingway praised the book so highly that he claimed “all modern American literature comes from *Huckleberry Finn*.”⁴

Imagine Morrison and Hemingway sitting together in the same 8th grade public school classroom. They are separated by more than a simple difference of opinion about the literary value of the book. The novel shamed Morrison and emotionally segregated her from Hemingway and her other White classmates who were not shamed by the book. Further emotional segregation resulted from her classmates voluntarily isolating themselves from her because they could not relate to her experience.

Should we remedy emotional segregation based on race? Emotional segregation may be considered solely a remnant of the legal subordination of Blacks under *de jure* segregation: a social harm model. This is consistent with the Supreme Court’s reasoning in *Plessy v. Ferguson*, in which the Court held that Blacks have only themselves to blame for any feelings of inferiority.⁵ Under this model, harms resulting from emotional segregation rely on social, not legal, rules for remedies. For example, a public school teacher could avoid creating emotional segregation by choosing not to teach *Huckleberry Finn*.

Alternatively, emotional segregation may be considered a continuing *social and legal* harm that is traceable to *de jure* segregation: a legal harm model. This is consistent with the Supreme Court’s reasoning in *Brown v. Board of Education*, in which the Court held that *de jure* segregation violated the equal protection of Blacks because it “generates a feeling of inferiority as to [Black children’s] status in the community that may affect their hearts and minds in a way unlikely ever to be undone.”⁶ A legal harm model acknowledges that social and legal inequality are linked, and presupposes that legal remedies should exist to address the inequality.

A legal harm model could define emotional segregation as a tort (emotional abuse) or as a violation of the constitutional right to

3. ELAIN MENSCH & HARRY MENSCH, BLACK, WHITE, AND HUCKLEBERRY FINN: RE-IMAGINING THE AMERICAN DREAM 109 (2000) (quoting Toni Morrison, introduction to *Adventures of Huckleberry Finn* xxxi (Tuscaloosa: University of Alabama Press 1996)) (Interestingly, Morrison also states that she discovered in her second reading of the novel “riveting episodes of flight, of cunning,” and “convincing commentary on adult behavior.” *Id.*) [hereinafter MENSCH & MENSCH].

4. JONATHAN ARAC, HUCKLEBERRY FINN AS IDOL AND TARGET: THE FUNCTIONS OF CRITICISM IN OUR TIME 5 (1997).

5. *Plessy v. Ferguson*, 163 U.S. 537, 551 (1896).

6. *Brown v. Board of Educ.*, 347 U.S. 483, 494 (1954).

equal protection, if caused by a state actor. Some legal harm models create broader protection from emotional segregation than other models and would move society closer to complete racial equality.

At present, the law does not recognize emotional segregation as a legal harm, although it does recognize a similar concept, the racially hostile environment.⁷ Emotional segregation based on race is no longer necessarily hostile, although it has its roots in the historical institutions of slavery and *de jure* segregation. Today, segregation results from everyday interactions in civil society. It occurs in places of worship, community centers, and schools. Moreover, it often is invisible to the "Hemingways," but devastating to the "Morrisons," as evidenced by their comments upon reading *Huckleberry Finn*.

This article explores emotional segregation in a narrow context: emotional segregation of children based on race in public school classrooms.⁸ I analyze *Huckleberry Finn* to develop the concept because of the novel's canonical status and widespread use in public schools. I also limit my analysis to the development of a social harm model because it is important to stop emotional segregation as quickly as possible. Realistically, I do not think the current legal climate in the United States would be receptive to a legal harm model.⁹ However, people of color should not have to depend on

7. Title VI of the Civil Rights Act of 1964 prohibits a racially hostile environment in schools that receive federal funds. The Office of Civil Rights defines a racially hostile environment as one where racially harassing physical, verbal, graphic or written conduct is sufficiently severe, pervasive, or persistent to interfere with or limit the ability of an individual to participate in or benefit from the school's activities. *Munson v. State Super. of Pub. Instr.*, No. 97-1450, slip op. at 16 (Wis. App. Feb. 17, 1998); 1998 Wis. App. LEXIS 165. A racially hostile environment could be defined as an extreme case of emotional segregation.

8. I focus primarily on the racial divisiveness that exists between Blacks and Whites because *Huckleberry Finn* raises issues about race in the context of the institution of slavery and *de jure* segregation following the Civil War. Some scholars suggest that a focus on the "Black/White Paradigm" marginalizes other racial minority groups. See, e.g., Berta Esperanza Hernandez-Truyol, *Building Bridges-Latinas and Latinos at the Crossroads: Realities, Rhetoric and Replacement*, 25 COLUM. HUM. RTS. L. REV. 369 (1994) (arguing that the focus on the Black/White paradigm excludes Latinos/Latinas and others from the discourse on race); Juan F. Perea, *The Black/White Binary Paradigm of Race: The "Normal Science" of American Radical Thought*, 85 CAL. L. REV. 1213, 10 LA RAZA L.J. 127 (1997) (same). But c.f. JOE R. FEAGIN, *RACIST AMERICA: ROOTS, CURRENT REALITIES, AND FUTURE REPARATIONS* (2000) (arguing it is White society that places people of color on a hierarchy with Blacks at the bottom). My focus is limited in this article only because of the novel's theme and my personal experiences. I believe it is important to bring a multi-racial discourse to the debate and I invite others to join in the discussion.

9. Recently, the Supreme Court held that a student's right of privacy is not violated under federal law when a classmate corrects the student's paper and reads the grade aloud to the teacher. *Owasso Indep. School Dist. V. Falvo*, 534 U.S. 426 (2002). The parents of the

White society's kindness to protect their right to racial equality; this article should be seen as an invitation to scholars and practitioners to help develop and promote a legal harm model.¹⁰

This article concludes that reading *Huckleberry Finn* can be harmful and that it should not be taught in public middle and high-school classrooms. Part I of this article traces the history of American society's understanding of harm done by racial segregation in public schools. The history comes in two stages: (1) the involuntary physical and emotional segregation of Blacks and Whites under *Plessy v. Ferguson*; and (2) the "voluntary" physical integration of Blacks and Whites under *Brown v. Board of Education*. Part II explores how *Huckleberry Finn* creates emotional segregation between Black and White students in public middle and high-school classrooms when it is part of a mandatory curriculum.¹¹ Part III focuses on the debate between Black and White societies over the pedagogical value of *Huckleberry Finn*.

student argued that their children were humiliated by the teacher's procedure. The Court reached its decision based on a technical reading of the law. This case may be a barometer for how the Court might rule on other school cases in which emotional harm is alleged.

10. Elsewhere I am developing a legal harm model using *Ambach v. Norwich*, 441 U.S. 68 (1979) as a focal point to establish that public school teachers have a constitutional obligation to teach racial equality in the classroom. The essay is tentatively titled, *Racial Intelligence in the Modern Classroom: Getting Smart About Race*.

11. In another essay, I argue that the novel should be placed in an anticanon of American literature, which would function the way the anti-canon of constitutional law functions. Sharon E. Rush, *The Anti-canonical Lesson of Huckleberry Finn*, 11 CORNELL J.L. & PUB. POLICY 577 (2002). As Professor Balkin notes, "In the literary canon, one usually remembers only the greatest works. But one of the interesting things about the legal canon is that it includes particularly dishonored examples of legal decisions as well as particularly honored ones." Jack M. Balkin, *Essay: Bush v. Gore and the Boundary Between Law and Politics*, 110 YALE L.J. 1407, 1449 (2001). Professor Primus suggests that dishonored decisions, like *Plessy v. Ferguson*, be placed in an anti-canon of constitutional law because they no longer have normative value and may even have been overruled, as was *Plessy*, but they continue to be useful study guides to help one understand how the Constitution evolves. Richard Primus, *Essay: Canon, Anti-canon, and Judicial Dissent*, 48 DUKE L.J. 243, 245 (1998) ("[T]he constitutional canon has a dual structure. Unlike a literary or a religious canon, the constitutional canon preserves examples of the worst errors in its field as well as the finest moments. . . . [T]he term 'canon' [can] refer to the set of texts that are not only important and normatively approved, and to refer to the twin set, the set of texts that are important but normatively disapproved, as the 'anti-canon.'"). See also J.M. Balkin and Sanford Levinson, *The Canons of Constitutional Law*, 111 HARV. L. REV. 963 (1998). Placing *Huckleberry Finn* in an anti-canon of American literature is appropriate both to symbolize that White society no longer values it as an anti-racist classic, and to acknowledge that it can be useful to teach *intellectually mature* students lessons about racism.

I. THE HARM OF SEGREGATION

A. *Plessy v. Ferguson*

1. *The Majority Opinion*—In *Plessy*, the Supreme Court upheld the constitutionality of a Louisiana statute that required segregation of Blacks and Whites on public railroad cars.¹² Writing for the majority, Justice Brown reasoned that Blacks have only themselves to blame for any feelings of inferiority resulting from the “separate but equal” doctrine. He opined that if “the enforced separation of the two races stamps the colored race with a badge of inferiority . . . it is not by reason of anything found in the [law], but solely because the colored race chooses to put that construction upon it.”¹³ The *Plessy* Court emphasized that the law cannot create social equality between Blacks and Whites: “If the two races are to meet upon terms of social equality, it must be the result of natural affinities, a mutual appreciation of each other’s merits, and a voluntary consent of individuals.”¹⁴ The source of the remedy for Blacks’ feelings of social inferiority lay in social rules. In the Court’s opinion, Blacks’ feelings of inferiority were unrelated to *de jure* segregation.

Justice Brown’s opinion was disingenuous because his analysis implicitly focused on the tangible equality between the White and Black railroad cars and assumed that if tangible equality existed, then legal equality also existed. It was unlikely that the cars were equal with respect to tangibles.¹⁵ This focus shifted attention away from what mattered under the Constitution: did the law actually promote legal equality between the races?

An analysis of whether the law actually promoted legal equality between the races at the time of *Plessy* depends on understanding that a person’s race was largely defined by genetics and the “drop of Black blood” rule.¹⁶ Mr. Plessy genetically was 7/8 Caucasian and 1/8 Black, and he appeared white by skin color.¹⁷ The possible

12. 163 U.S. 537, 540–41 (1886). At the time of *Plessy*, race was defined by genetics and under the hypodescent rule. For example, someone like Mr. Plessy who was 7/8 Caucasian and 1/8 Black probably would have been legally Black. See generally, Christine B. Hickman, *The Devil and the One Drop Rule: Racial Categories, African Americans, and the U.S. Census*, 95 MICH. L. REV. 1161 (1997).

13. 163 U.S. at 551.

14. *Id.*

15. Michael J. Klarman, *The Plessy Era*, 1998 SUP. CT. REV. 303, 324 (1998) (noting there were a number of lawsuits brought by Blacks seeking equal accommodations).

16. Hickman, *supra* note 12.

17. *Plessy*, 163 U.S. 537, 541 (1886).

disconnect between his “genetic” race under the “drop of Black blood” rule, his skin color, and Louisiana law presented race as more complex than genetics and appearance at a time when White society wanted racial lines to be sharp and distinct and chose to rely on genetics as the definitive way to “know” someone’s race. Depending on where Louisiana law drew its color line, Mr. Plessy could have been legally Black or White. With this understanding, consider four different hypothetical situations that could have caused legal conflict under Louisiana law depending on how it defined race:

- A. A person who appears Black and has mostly “Black blood” rides in a car reserved for Whites.
- B. A person who appears White and has no “Black blood” rides in a car reserved for Blacks.
- C. A person who appears White and has some (less than half) “Black blood” rides in a car reserved for Blacks.
- D. A person who appears White and has some (less than half) “Black blood” rides in a car reserved for Whites.

Plessy upheld the right of states to criminalize Situations A and B, but as a practical matter neither situation was likely to happen largely because of the social taboo of violating the segregation laws. In situation A, the law would define the person as Black and a Black person who tried to ride in the Whites’ car knew he or she would be subject to prosecution, but perhaps more importantly, the person knew he or she was likely to be beaten.¹⁸ In situation B, the law would define the person as White and a White person simply would not have violated social etiquette by riding in a car with Blacks.¹⁹ If a White person had done this, the law probably would not have been enforced because segregation laws were about restricting the associational rights of Blacks, not Whites.²⁰

In Situations C and D where a person appears White and has some (less than half) “Black blood,” it is not clear how Louisiana

18. Klarman, *supra* note 15, at 332 (“The dramatic increase in racial violence and lynching made segregation increasingly appear to be ‘the embodiment of enlightened public policy’—a progressive strategy for reducing interracial conflict.”).

19. See Randall Kennedy, *Martin Luther King’s Constitution: A Legal History of the Montgomery Bus Boycott*, 98 YALE L.J. 999, 1010 (1989) (segregation laws were a code of etiquette for Blacks to protect Whites from being in their company).

20. *Id.*

law would have defined the person. In situation C where the person rides in a Blacks' only car, however, the legal definition of his race would not have mattered because race was (is) largely a matter of White society's definition of an individual.²¹ If a "White-looking" genetically Black person under the "Drop of Black blood" rule, someone like Mr. Plessy, identified himself as Black, White society would not have disagreed because a person could *appear* White but not *be* White under the extant definitions and understandings of race as created and controlled by Whites. Mr. Plessy's self-identification as a White man was irrelevant in situation C because it coincided with social rules and, if Louisiana law defined him as Black, he also was in the "right" car.²² The controversy surrounding a light-skinned black person like Mr. Plessy was that he wanted the privilege of being White (White privilege) when he had some Black blood, and, possibly, legally was not White. If Mr. Plessy had boarded the car for Blacks, he would not have been challenged about his race because he did not challenge the concept of White privilege. Whites were more interested in protecting "Whiteness" than they were in protecting Whites who wanted to be thought of as Black when Blackness could exist even in "White-looking" folks.²³ "Mistaking" a self-identified Black person for a White person was unimaginable.

Thus, Situation D presents the legal and social crux of the matter. Under Louisiana law, if Mr. Plessy was legally White, he was not violating the law by riding in the Whites' only car. For the conductor to "accuse" him of being Black, however, was a terrible social wrong in a *de jure* segregated society. Moreover, the harm was not solely about erroneously losing White privilege and the attendant benefits; the harm also was emotional. It would have been humiliating to be mistaken for Black if one were legally White. Assuming this were the case, Mr. Plessy would have had an absolute defense to criminal charges as well as an action for damages because of lost reputation, as the Court noted:

If he be a white man and assigned to a colored coach, he may have his action for damages against the company for being

21. Cheryl I. Harris, *Whiteness as Property*, 106 HARV. L. REV. 1707, 1738 (1993) ("[R]acial identity was governed by blood, and white was preferred.").

22. *Id.* at 1741. Even today, race identification is imposed on Blacks. See Hickman, *supra* note 12, at 1253 (in exploring a multiracial box on the 2000 census form, Professor Hickman observes, "race, at least African-American race, is not just a matter of self-identification. While we do have choices, to a large extent our race is *not* one of them.").

23. Harris, *supra* note 21, at 1739-1740 (drop of Black-blood rule usually followed).

deprived of his so-called property. Upon the other hand, if he be a colored man and be so assigned, he has been deprived of no property, since he is not lawfully entitled to the reputation of being a white man.²⁴

Thus, the legal consequences for Mr. Plessy under Situation D were dramatically different depending on where he fell on Louisiana's color line. If he was legally Black, he was lawfully removed from the railroad car and lawfully charged with a crime. If he was legally White, he was unlawfully removed and had a defense to criminal charges as well as a defamation suit. This is not legal equality. Significantly, whether the cars were "equal" with respect to their amenities had nothing to do with the legal analysis that should have been done in *Plessy*. Justice Brown was wrong to hold that the separate but equal doctrine promoted legal equality and that the law played no role in creating and protecting social inequality.

Justice Brown also was wrong to suggest that *de jure* segregation did not cause emotional harm. When *de jure* segregation worked "properly," Blacks felt Whites' legally sanctioned disrespect in ways that violated Blacks' equality as human beings. This is emotional segregation. When *de jure* segregation "failed" because Blacks invaded Whites' spaces, Whites' emotions were "assaulted." Importantly, this is *not* emotional segregation because society did not sanction the disrespect of Whites at all. Quite the opposite: Whites *were* society and they vehemently disapproved of Blacks "disrespecting" Whites by violating *de jure* segregation laws.

Whereas Blacks had to rely on social rules to redress their emotional *segregation*, Whites could rely on the law to redress their emotional *harm*. In this way, *Plessy's* reliance on social rules to create social equality for Blacks is a social harm model but a meaningless one for two reasons. First, White society *wanted* Blacks physically and emotionally segregated from Whites; they wanted their own separate spaces because Whites believed Blacks were inferior. This social structure formed the foundation for slavery and then *de jure* segregation under the legal structure. Whites infliction of emotional segregation on Blacks was intentional. Second, the legal remedies available to Whites to redress their emotional *harm* when *de jure* segregation was violated did not address Blacks' emotional *segregation*. In this way, *Plessy* offered Whites a legal remedy

24. *Plessy*, 163 U.S. 537, 549 (1896).

for their emotional harm, but it certainly did not offer a legal harm model to redress Blacks emotional segregation.

No meaningful social harm model could have existed to protect Blacks while the law recognized only Whites' emotional harm. If Blacks crossed the physical color line, the law imposed criminal sanctions. Blacks' emotional and physical segregation were inextricably linked.

2. *Justice Harlan's Dissent in Plessy v. Ferguson*—Justice Harlan bravely dissented in *Plessy* and would have held the "separate but equal" doctrine unconstitutional because he believed the Constitution is "color-blind, and neither knows nor tolerates classes among citizens."²⁵ Increasingly, Whites of goodwill—self-identified anti-racists—agree with Justice Harlan and embrace the color-blind philosophy.²⁶ Moreover, Justice Harlan's conclusion that the law was unconstitutional would have achieved almost total legal equality. Anyone removed from any car based on race could have raised the unconstitutionality of the law as a defense in a criminal prosecution. A White person wrongfully removed because he or she was mistaken for Black might still have a defamation suit, however. But this difference in remedies also is quite revealing of

25. 163 U.S. at 559 (Harlan, J., dissenting). Cf. Neil Gotanda, *A Critique of "Our Constitution is Colorblind,"* 44 STAN. L. REV. 1, 39 (1991) ("Justice Harlan recognized that segregation based on race is inherently subordinating. By rejecting the majority's view that racial segregation is unconnected to oppression and by refusing to adopt the rigid legalism of formal-race, Justice Harlan anticipated by a half-century the spirit of *Brown v. Board of Education*.")

26. The growing support for colorblindness can be seen in university admissions policies as officials try to maintain diversity either through race-blind or race-conscious policies. The issue whether admissions to public universities must be race-blind has split a few circuits. For example, the Fifth Circuit has held that racial diversity is not a compelling state interest in public school admissions and held unconstitutional a race-conscious policy. *Hopwood v. Texas*, 78 F.3d 932 (5th Cir. 1996). The Ninth Circuit has held the opposite. *Smith v. Univ. of Wash. Law Sch.*, 233 F.3d 1188 (9th Cir. 2000). The Eleventh Circuit held unconstitutional an admissions policy at the University of Georgia because it was not narrowly tailored, bypassing the question whether diversity is a compelling interest. *Johnson v. Bd. of Regents of the Univ. of Ga.*, 263 F.3d 1234 (11th Cir. 2001). For an excellent critique of the Johnson decision, see *Recent Cases*, 115 HARV. L. REV. 1239 (2002). The district court cases regarding the University of Michigan and its Law School split on the issue. *Compare Gratz v. Bollinger*, 122 F. Supp. 2d 811 (E.D. Mich. 2000), *rev'd in part, vacated in part*, 288 F.3d 782 (6th Cir. 2002) (district court holding that diversity is a compelling state interest) *with Grutter v. Bollinger*, 137 F. Supp. 2d 821 (E.D. Mich. 2001), *rev'd in part, vacated in part*, 288 F.3d 782 (6th Cir. 2002) (district court holding that diversity is not a compelling state interest). The Supreme Court has granted certiorari in the Michigan cases. 123 S. Ct. 617 (2003). For a recent analysis of the issues in the affirmative action controversy, see WILLIAM G. BOWEN & DEREK BOK, *THE SHAPE OF THE RIVER: LONG-TERM CONSEQUENCES OF CONSIDERING RACE IN COLLEGE AND UNIVERSITY ADMISSIONS* (1998) (presenting empirical data to support the value of affirmative action); Charles Lawrence, *Two Views of the River: A Critique of the Liberal Defense of Affirmative Action*, 101 COLUM. L. REV. 928 (2001).

Whites' privileged status, legally and socially, in a *de jure* segregated society. Specifically, whether the law was upheld or struck down made no difference legally to Whites because the remedies available to them if they were wronged were the same.

It is likely that defamation actions would have survived under Harlan's view of the Constitution. Almost immediately before he stated that the "Constitution is color-blind," Harlan wrote that:

The white race deems itself to be the dominant race in this country. And so it is, in prestige, in achievements, in education, in wealth and in power. So, I doubt not, it will continue to be for all time, if it remains true to its great heritage and holds fast to the principles of constitutional liberty.²⁷

What is one to make of the last sentence of this excerpt? One reading of it is that it is an *explicit* rendition of the race precept: no matter how hard Blacks try to be equal, their efforts will be futile because they are inherently inferior. A social harm model from this view is meaningless.

Read another way, Justice Harlan's statement suggests that Whites are so far ahead of Blacks in economic, social, educational, and political achievements that Blacks can never catch up. This reading differs from the first because it accepts Blacks' inherent ability to be as successful as Whites, but also accepts the reality of the gigantic head-start Whites had in establishing themselves as the dominant race in society. Blacks had been free from slavery only 31 years before *Plessy*. In contrast, Whites arrived in what is now the United States about 400 hundred years before *Plessy* and by the late 1600's had chosen Africans to be slave laborers to help establish Whites' prosperity and dominance in all other ways.²⁸

Harlan's observation that Whites will always be the dominant race in America is an *implicit* rendition of the race precept because Harlan is suggesting that Whites have no legal obligation to remedy the systemic inequality slavery and *de jure* segregation caused between Blacks and Whites. When Harlan tied the racial and social

27. *Plessy*, 163 U.S. at 559 (Harlan, J., dissenting).

28. VINCENT HARDING, *THERE IS A RIVER: THE BLACK STRUGGLE FOR FREEDOM IN AMERICA* 7 (1981); FEAGIN, *supra* note 8, at 40–41. It should be noted that the first Europeans also enslaved Native Americans, who accounted for about 5 percent of the slave population. HARDING, *supra*, at 28. Still, "[i]t was Africans who would play a central role in the functioning of colonial society. By the early 1700s people of African descent had become a major source of labor for the colonies, and the economic foundation for several centuries of undeserved enrichment for whites was firmly set in place." FEAGIN, *supra* note 8, at 40.

hierarchy existing at the time of *Plessy* to principles of constitutional liberty, he constitutionalized the race precept just as the *Plessy* majority did, even though he thought he would have created total legal equality. He did not recognize Whites' belief in the race precept and their legal or social "superiority" as a practical matter.

To summarize, Whites who supported *de jure* segregation did not care about Blacks' emotional segregation under that system. Whites of goodwill like Harlan could see that *de jure* segregation violated legal equality, but perhaps they could not see the emotional segregation that would linger even if *de jure* segregation was struck down because Whites still believed in the race precept. If Whites cannot see emotional segregation, they will be unable to remedy it under either model. One hopes the converse is true: when Whites of goodwill see emotional segregation, they will want to live by a social harm model even if a legal harm model is not in place.

B. Brown v. Board of Education

Unlike Justice Harlan's dissent in *Plessy*, the *Brown* Court partially recognized that a commitment to legal equality requires social equality. The *Brown* Court acknowledged that racism was behind *de jure* segregation and that law *can* promote both legal and social equality:

Segregation of white and colored children in public schools has a detrimental effect upon the colored children. The impact is greater when it has the sanction of law; for the policy of separating the races is usually interpreted as denoting the *inferiority* of the negro group.²⁹

Brown moved society toward this goal by ending *de jure* segregation in public schools. Moreover, the Court's acknowledgment of the causal link between racism and legal inequality enabled the Court to lay responsibility on White society for physically and emotionally segregating Blacks from all of White society in an especially demeaning way that denied Blacks their full humanity. In short, the *Brown* Court acknowledged that *de jure* segregation violated the fundamental democratic principle that no individual is superior or

29. *Brown*, 347 U.S. 483, 494 (1954) (emphasis added).

inferior to any other person because of race. Thus, the *Brown* Court's failure by omission to adopt Justice Harlan's view that the Constitution is color-blind evidences the *Brown* Court's understanding that racial equality would take more than adopting a legal harm model that would do little more than overrule *Plessy* and otherwise pretend that racial differences still do not matter. Such a seemingly simple solution to ending racial inequality was unrealistic because White society's emotional attachment to the race precept and Black society's emotional segregation because of it were both too deep.

Why was the *Brown* opinion only a partial success?³⁰ The *Brown* Court opined that even if it held unconstitutional the separate but equal doctrine in public education, Black children's "hearts and minds"³¹ still might never recover from the harm the doctrine caused, including the children's "feeling of inferiority as to their status in the community."³² Importantly, the Court suggested that emotional segregation can permanently scar children. Equally important, the Court's conclusion states only half of the harm caused by the race precept: the myth of Black inferiority. Despite lacking any basis in reality, the pervasiveness of the precept nevertheless undoubtedly affected the self-esteem of Black children.³³ Like Harlan's dissent in *Plessy*, this partial understanding of the race precept left intact the assumption that White children are superior to Black children, and this myth also bolstered the self-esteem of White children based on their whiteness.

Thus, a focus only on developing higher self-esteem in children of color by teaching them they are not racially inferior to White children does not teach White children that they are not racially superior to Black children. Moreover, White children's feelings of superiority translate into a perspective of the world that Whites are

30. Some scholars have criticized *Brown* as being more about protecting Whites' interest than in supporting racial equality. See, e.g., Derrick Bell, *Comment: Brown v. Board Of Education and the Interest-Convergence Dilemma*, 93 HARV. L. REV. 518 (1980) (arguing that *Brown* was about helping the United States in Cold War, where an image as a racist nation would impair influence of the United States compared to the Soviet Union in developing countries); Mary L. Dudziak, *Desegregation as a Cold War Imperative*, 41 STAN. L. REV. 61 (1988) (same).

31. *Brown*, 347 U.S. at 494.

32. *Id.*

33. See Richard Delgado, *Words That Wound: A Tort Action for Racial Insults, Epithets, and Name-Calling*, in CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado ed., 1995) 162, 162 (arguing that racial labeling can cause self-hatred in children of color).

rightfully the dominant race, as suggested by Justice Harlan.³⁴ At best, a focus on undoing only the “inferiority” half of the precept (assuming it were possible) teaches all children that Blacks *theoretically* can be equal to Whites, but, like Harlan, on some level of consciousness they know this will never happen. Physical integration did not bring with it emotional integration, that is, the elimination of emotional segregation.³⁵ In this way, *Brown* held that Black students constitutionally were entitled to be physically integrated in public schools with White students, but the students otherwise stayed emotionally segregated because of the perseverance of the race precept in the hearts and minds of *all* students in the classroom.

Thus, just as segregation in the “separate but equal” doctrine was not solely about physical segregation, neither was integration in *Brown* solely about physical integration.³⁶ Both instances also were about emotional segregation and the need to rid society of the race precept. Emotional segregation could not be eliminated solely by physically integrating the railroad cars or the classrooms. As a result, emotional segregation caused by White society’s belief in the race precept has yet to be addressed, *Brown* notwithstanding.

If children are disabused of the race precept, society-wide emotional segregation can be eliminated. Toward this goal, it becomes imperative to educate Whites on the concept of unconscious racism, particularly as it relates to White privilege, so that a social or legal harm model can be effective in eliminating emotional segregation. I attempt to illustrate their unconscious racism using *Huckleberry Finn* as a focal point.

II. EMOTIONAL SEGREGATION, *HUCKLEBERRY FINN*, AND THE CLASSROOM

A. *Huckleberry Finn* in the Public Schools

Huckleberry Finn is one of the most widely read books in public schools because it “is enshrined at the center of the American

34. See BELL HOOKS, *KILLING RAGE: ENDING RACISM* 269–71 (1995) (Whites have to divest themselves of privilege and Blacks have to rid their minds of “internalized racism”).

35. By emotional integration, I am not suggesting Blacks should assimilate into White society. I believe all races should share equally in controlling public spaces. See Sharon E. Rush, *Sharing Space: Why Racial Goodwill Isn’t Enough*, 32 CONN. L. REV. 1 (1999).

36. Harris, *supra*, note 21, at 1750–51, n.194, 1755.

literature curriculum.”³⁷ “The work is second only to Shakespeare in the frequency with which it appears in the classroom, required in seventy-six percent of parochial high schools. The most taught long work, and the most taught piece of American literature, *Huckleberry Finn* is a staple from junior high . . . to graduate school.”³⁸ Justin Kaplan, the renowned literary critic who won the Pulitzer Prize in 1967 for his book, *Mr. Clemens and Mark Twain*, describes his view of *Huckleberry Finn*’s grandness:

By now a fixture among the classics of world literature, *Huckleberry Finn* clearly has reached ‘the masses.’ They have read it in English, Chinese, Japanese, Russian, Hebrew, and practically every other tongue spoken on the globe. A 1960 estimate put the cumulative sales of the book at ten million copies, but that was some time ago. (The current total might be closer to fifteen million.) This country alone has about forty editions in print, including the splendid omnibus volume in the Library of America series. But at the same time, as the ongoing critical debate suggests, *Huckleberry Finn* has also become the property of the lettered classes, who have turned it into a sort of fresh-water *Moby Dick*.³⁹

B. *Huckleberry Finn* is Racist

As students read *Huckleberry Finn*, Twain has assigned them by race to their “proper” Plessy-Harlan roles even in today’s classroom. Just as the constitutionality or unconstitutionality of the Louisiana law requiring segregation in the railroad cars in *Plessy* made no difference to Whites’ legal rights or social status, the harm and racial inequality that result from teaching *Huckleberry Finn* make no difference to most literary critics and teachers. Imagine the following defense of *Huckleberry Finn*, parroting Justice Brown in *Plessy*:

37. MENSCH & MENSCH, *supra* note 3, at 12.

38. *Id.* at 13 (quoting Richard White, from Ester B. Fein, *Book Notes: Heathcliff and Huck Going the Way of Scarlett*, N.Y. TIMES, Feb. 5, 1992 at C15).

39. JUSTIN KAPLAN, *BORN TO TROUBLE: ONE HUNDRED YEARS OF HUCKLEBERRY FINN* 13 (1985).

If the enforced [separation of the two races] *reading of Huckleberry Finn* stamps [the colored race] *Black students* with a badge of inferiority . . . it is not by reason of anything found in the [law] *book*, but solely because [the colored race chooses] *Blacks choose* to put that construction upon it.

I have organized my discussion of *Huckleberry Finn*'s racist message around the justifications for teaching the novel.

1. *The Racial Epithet*—What argument, what eloquence can avail against the power of that one word *n_____s*? The man of the world annihilates the whole combined force of all the antislavery societies of the world by pronouncing it.⁴⁰

—Ralph Waldo Emerson

Teachers justify exposing students to the repeated use of the epithet because that is what slaves were called at that time in history.⁴¹ Not long ago Ted Koppel espoused this view to millions of viewers on the television show *Nightline*.⁴² This justification is problematic for several reasons. As an historical matter, free Blacks also were called the epithet during Twain's time. Huck's father, Pap, makes this point in his tirade about free Blacks being able to vote in some states. Describing free Blacks by use of the epithet, Pap is so upset by their inclusion in the voting process that he decides he will never vote again.⁴³ Clearly, Blacks were referred to by the epithet, not because they were enslaved, but because they were Black.

In one classroom, as an introduction to *Huckleberry Finn*, a White teacher asked her students what the racial epithet meant and the White students turned around and looked at the Black students in the room.⁴⁴ The effect was probably similar to Whites' response upon seeing for the first time Black passengers riding in the same railroad cars and Black students attending previously segregated public schools: emotional segregation between Black students and other students in the classroom.

40. ARAC, *supra* note 4, at 34 (quoting RALPH WALDO EMERSON, EMERSON IN HIS JOURNALS 338 (Joel Porte, ed. 1982) (author uses whole word)).

41. RANDALL KENNEDY, *N_____*: THE STRANGE CAREER OF A TROUBLESOME WORD (2002) (exploring the history and modern uses of the word) (author uses entire word).

42. ARAC, *supra* note 4, at 73–74.

43. HF at Ch. 6.

44. Peaches Henry, *The Struggle for Tolerance: Race and Censorship in Huckleberry Finn*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 28, 40 (James S. Leonard et al. eds., 1992).

White people of goodwill understand that the epithet is offensive and that saying it marks a person as a racist. Professor Arac offers a poignant example.⁴⁵ In O.J. Simpson's trial for the murder of his wife, Nicole, and her friend, Ronald Goldman, defense counsel Johnnie Cochran, an African American, wanted to demonstrate that Detective Mark Fuhrman fabricated evidence to ensure Simpson's conviction,⁴⁶ and Cochran's best evidence of Fuhrman's racism was his use of the epithet in tapes made years before the Simpson trial.⁴⁷ In an effort to keep the jury, comprised mostly of Blacks, from hearing this evidence, prosecutor Christopher Darden, also African American, argued that:

"the 'N-word' was so hideously pejorative that it would inevitably prejudice the mostly black jury . . . It's the filthiest, dirtiest, nastiest word in the English language,' so powerful that 'when you mention that word to this jury, or any African-American, it blinds people. It'll blind the jury. It'll blind the truth. They won't be able to discern what's true and what's not.'"⁴⁸

Cochran responded that African Americans "have to bear so much that they can bear this too and keep their 'perspective': 'African Americans live with offensive words, offensive looks, offensive treatment every day of their lives.'"⁴⁹

Judge Ito ruled in favor of admitting the evidence, with this caution to the jury: "the epithet is 'so vile that it operates as a divisive demand that those to whom or about whom it is said take some action and that its use can cloud the operation of good judgment and common sense.'"⁵⁰

These excerpts raises three interesting points. First, Darden, Cochran, and Ito agreed that the word was extremely pejorative and considered whether it would be potentially destructive of the truth-finding mission of the trial. Second, it seemed to be a given that if Fuhrman used the racial epithet, then he is racist and

45. See ARAC, *supra* note 4, at 29.

46. *Id.*

47. George Fisher, *Review Essay: The O.J. Simpson Corpus*, 49 STAN. L. REV. 971, 1006 (1997).

48. ARAC, *supra* note 4, at 29 (quoting Kenneth B. Noble, *Issue of Racism Erupts in Simpson Trial: Prosecutor and Defense Lawyer Clash in Arguments over Epithet*, N.Y. TIMES, Jan. 14, 1995, at A10).

49. *Id.*

50. *Id.*

probably was motivated to fabricate incriminating evidence against Simpson. At a minimum, the jury would have had reasonable doubt to question Fuhrman's integrity in conducting the investigation of the crime scene. Finally, Fuhrman's use of the word was not directed at Simpson or at any other African American in the courtroom, but everyone agreed that merely uttering the word would do serious collateral damage to all the African Americans who would hear it, including the jurors, Simpson, Darden, and Cochran.

Compare the serious consideration given to the introduction of the word in Simpson's trial with the facile acceptance of its repeated use in *Huckleberry Finn*. Realize that all of those involved in the decision whether to allow Fuhrman's testimony were adults. Moreover, invocation of the epithet in the trial setting was for a limited purpose in a controlled environment. In stark contrast, it is children, usually between the ages 11–17, who are subjected to the repeated use of the epithet in reading *Huckleberry Finn*. Children and young adults are far less able to contextualize use of the epithet or control their emotional responses to it. The harm to children inflicted with racial pain is greater than it is for adults,⁵¹ and logically, the impact of the epithet on them deserves as much, if not more, consideration than the impact on the adults in the Simpson trial.

Notwithstanding Whites' acceptance and understanding that the racial epithet is invoked to convey a person's belief in the race precept, most teachers sincerely, but mistakenly, think that they can adequately protect their students from the emotional segregation it causes. For example, John Wallace, an African American scholar who condemned the book as racist trash,⁵² thought he would resolve the dilemma of the racial epithet in the novel by writing an edition in which he substituted the word "slave" for the epithet, thinking this would make the book more palatable without altering the essence of the story.⁵³ This indicates to some extent how Blacks and Whites both struggle to understand racism. Substituting "slave" for the epithet is problematic because it allows readers erroneously to "conclude that life wasn't so bad for blacks in the South."⁵⁴ Dr. Peaches Henry, an African American scholar, emphasizes that the

51. Delgado, *supra* note 33, at 162.

52. ARAC, *supra* note 4, at 67.

53. John H. Wallace, *The Case Against Huck Finn*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 16, 24 (James S. Leonard et al. eds., 1992).

54. James S. Leonard & Thomas A. Tenney, *Huck Finn and the Authorities*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 14 (James S. Leonard et al. eds., 1992).

epithet is "far more than a synonym for slave It conjures centuries of specifically black degradation and humiliation during which the family was disintegrated, education was denied, manhood was trapped within a forced perpetual puerilism, and womanhood was destroyed by concubinage."⁵⁵ Being identified as a slave is not dignifying either; "slave" defines a Black person who was the property of a White master. Thus, removing the epithet does not change the portrayal of Blacks as less than human in the story. Some critics even suggest that the repeated use of the epithet gives Whites a license to use it.⁵⁶

Significantly, this is how Huck refers to Jim throughout the novel, even after he has decided he would rather lose his soul than return Jim to slavery. As a statement of self-deprecation, Huck even refers to himself by the epithet.⁵⁷ Certainly, Twain's repeated use of the epithet to describe all Blacks in the novel is quite telling about society's belief in the precept.

The idea that Black readers should not be offended by Twain's use of the epithet because today even Blacks call each other that also needs to be addressed. Blacks have different views on the use of the epithet.⁵⁸ Some suggest it should never be uttered as a matter of respect for all Blacks who have been called the word by Whites in its originally derogatory way.⁵⁹ Other Blacks, most notably Lenny Bruce, use the word for artistic purposes.⁶⁰ Today's Blacks use the word to signify a common bond they share as they struggle against the oppression White society inflicts on them, including White society's derogatory use of the word.⁶¹ Perhaps this is why "W.E.B. DuBois with good reason referred to [the racial epithet] as 'the word . . . which no white man must use.'"⁶²

55. Henry, *supra* note 44, at 30–31.

56. See ARAC, *supra* note 4, at 29. See also MENSCH & MENSCH, *supra* note 3, at 110 (recounting the story of White students whispering the epithet to a Black student outside of the classroom in which the students were reading the novel).

57. Fredrick Woodard & Donnarae MacCann, *Minstrel Shackles and Nineteenth-Century "Liberalism" in Huckleberry Finn*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 141, 153 n.27 (James S. Leonard et al. eds., 1992).

58. KENNEDY, *supra* note 41, at 160 ("[B]lacks differ sharply over the use of n_____") (author uses whole word).

59. See, e.g., W.E.B. DuBois, *The Humor of Negroes*, MARK TWAIN Q., Fall–Winter 1942–43, at 12.

60. See, e.g., KENNEDY, *supra* note 41, at 945.

61. See generally *id.*, at 47–50 (describing how Blacks use the word to signify a bond).

62. Leonard and Tenney, *supra* note 54, at 6 (quoting W.E.B. DuBois, *The Humor of Negroes*, MARK TWAIN Q., Fall–Winter 1942–43 at 1.)

2. *The History Lessons*—Some teachers use the book to teach both literature and history. But is *Huckleberry Finn* a good history book? Here, I explore four inaccurate history lessons students might learn from the novel.

a. *Slavery and Morality*—Huck has several opportunities to return Jim to slavery, but chooses each time to continue their journey down the Mississippi River. Huck never returns Jim to slavery and one could say that Jim's trust in Huck on this important promise is not misplaced. However, each time Huck struggles with his decision, the reader is left in abeyance on the question whether Huck will betray Jim. Twain's purpose, of course, is to demonstrate Huck's moral development as he "struggles" with his conscience.

Underneath Huck's superficial struggle is a darker lesson, however. Specifically, young students are drawn into the story and struggle with Huck as his conscience bothers him. Students know that slavery is wrong, of course, but Twain invites them *to try to understand* Huck's dilemma, which is either to act morally by treating Jim as a human being rather than a slave, or to act immorally by treating Jim as lost property that needs to be returned to Miss Watson. Twain presents Huck's dilemma as if it were a *real* moral dilemma. Many of our Founding Fathers, Presidents, and other influential leaders owned slaves.⁶³ Publicly, they seemed concerned less with the immorality of slavery and the slave trade, and more concerned with the political ramifications of abolishing it. Their concerns focused on the perceived need to keep slavery to "save" the Union and the economic impact abolishing slavery would have on southern states.⁶⁴ Notwithstanding the public debates, the Framers knew slavery was immoral. Privately, many prominent slave owners freed their slaves, not because they protested the inhumanity of slavery, but rather "because of its negative impact on the work

63. See FEAGIN, *supra* note 8, at 15 ("Men of politics like Thomas Jefferson, George Washington, Alexander Hamilton, Patrick Henry, Benjamin Franklin, John Hancock, and Same Houston enslaved black Americans. Ten U.S. presidents (Washington, Jefferson, James Madison, James Monroe, Andrew Jackson, John Tyler, James Polk, Zachary Taylor, Andrew Johnson, and Ulysses S. Grant) at some point in their lives enslaved African Americans.") (footnote omitted).

64. See, e.g., Charles A. Beard, *The Constitution: A Minority Document*, in CONFLICT AND CONSENSUS IN EARLY AMERICAN HISTORY 117 (A.F. Davis & H.D. Woodman eds., 6th ed., 1984) ("Even the destruction of the slave trade had an economic basis, although much was said at the time about the ethics of the clause. In the North where slavery, though widespread, was of little economic consequence, sympathy with the unfortunate negroes could readily prevail. Maryland and Virginia . . . were not willing to see the value of their chattels reduced to a vanishing point by excessive importations.").

ethic and morality of whites.”⁶⁵ Throughout history, most Whites have known that slavery is immoral even though White society publicly condoned it at one time.⁶⁶

For most young readers the distinction between supporting slavery for political, economic, or moral reasons is subtle and confusing. If slavery is moral, students might wonder why Huck is torn and also why the institution of slavery historically was controversial, especially if it also made political and economic sense. Ironically, unless Twain presents slavery as a moral issue (even though it was a political and an economic one), the foundation of the book would crumble because Huck’s moral dilemma would be exposed as an artificial one. Twain places Huck in an ostensibly real dilemma so that Huck’s ultimate decision not to turn in Jim can *look* morally heroic and courageously subversive, especially to young readers. Closer reflection reveals that Huck’s dilemma is artificial and historically inaccurate.

Is it in the best interest of young impressionable readers to even try to understand Huck’s dilemma? Do supporters of the book want readers to consider that turning Jim in was possibly the moral choice? Asking public middle- and high-school students, especially Black students, to “empathize” with Huck as he struggles with his “dilemma” creates potential conflict in their hearts and minds about the validity of the race precept, the *Brown* Court’s concern even as it held unconstitutional *de jure* segregation. Modern supporters of the book face the hypocrisy that although slavery is immoral, the legalization of slavery was understandable. Huck’s struggle with this artificial dilemma challenges claims that the book is anti-racist.

b. Slavery and Racism—Huckleberry Finn’s message is not a resounding condemnation of slavery. After all, Huck attempts to free only one slave and never “adjudge[s] slavery to be wrong; he selectively disregards a system that he ultimately believes is right.”⁶⁷ In fact, Huck’s public persona is that of a conforming racist and someone who hates abolitionists.⁶⁸ Equally telling, initial reviews of

65. Kevin Brown, *Do African-Americans Need Immersion Schools? The Paradoxes Created by Legal Conceptualization of Race and Public Education*, 78 IOWA L. REV. 813, 856 (1993).

66. FEAGIN, *supra* note 8, at 15 (“The founders themselves sometimes exhibited guilt over the system of slavery. . . . Into the mid-nineteenth century, the majority of whites—in the elites and among ordinary folk—either participated directly in slavery or in the trade around slavery, or did not object to those who did so.”).

67. Henry, *supra* note 44, at 32.

68. See HF at Ch. 16.

the book never praised it for denouncing racism; it was not even presented as a book relevant to the issue of race.⁶⁹ If Huck had been anti-slavery, he would not have had a dilemma to resolve. For example, he would not have asked the question whether it would be better to turn in Jim or "go to hell,"⁷⁰ because he did not want to go to heaven anyway. Heaven was unattractive to him because Tom Sawyer was not going to heaven and everyone in heaven played a harp all day.⁷¹ Most important, Huck's choice to risk eternal salvation is not surprising; taking a stand against returning Jim to slavery is the moral crux of the matter. That is the point of the book. If Huck had revealed Jim's whereabouts knowing he would be returned to slavery, Whites of goodwill would not identify with the book because Huck indisputably would be racist. The support of slavery is one of the clearest expressions of White racism. If Huck were clearly racist, there would be no support for the claim that the book is anti-racist.

Moreover, it is important to distinguish between people who believed in abolishing slavery and those who believed in abolishing the race precept, particularly during this time in history. Some Whites claim that an anti-slavery book is consistent with Twain's public image, citing to factors such as his scholarship support of a Black student at Yale Law School.⁷² In contrast, some Blacks assert that "[i]t is difficult to believe that [Mark Twain] would write a book against the institution of slavery; he did, after all, join a Confederate army bent on preserving that peculiar institution."⁷³

Whether or not Twain supported slavery, it is clear that he believed in the race precept, even though he thought of himself as non-prejudiced: "that (bar one) [the French] I have no race prejudices, and I think I have no color prejudices nor caste prejudices nor creed prejudices. . . . All that I care to know is that a man is a human being—that is enough for me."⁷⁴

Simultaneously, and illustrative of his limited goodwill, Twain lamented in 1906 "the death of 'the real n____ show' (referring to

69. ARAC, *supra* note 4, at 175.

70. HF at Ch. 31.

71. *Id.* at Ch. 1.

72. E.g., SHELLY FISHER FISHKIN, WAS HUCK BLACK?: MARK TWAIN AND AFRICAN-AMERICAN VOICES 90 (1993).

73. Wallace, *supra* note 53, at 23.

74. Bernard W. Bell, Twain's "N____" *Jim: The Tragic Face behind the Minstrel Mask, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN* 124, 127 (James S. Leonard et al. eds., 1992) (quoting PHILIP S. FONER, MARK TWAIN: SOCIAL CRITIC 237, 255 (1958) (author uses whole word)).

the minstrel show).⁷⁵ The minstrel show was a popular form of entertainment for Whites during this time in history. "Minstrels codi[fied] the public image of blacks as the prototypical Fool or Sambo."⁷⁶ Much criticism about Twain's portrayal of Jim focuses on Twain presenting Jim in the image of the minstrel performer.⁷⁷ Like other White people of goodwill, Twain identified himself as anti-racist even though he openly believed in the race precept. Furthermore, it is possible that Twain named Jim, the representative of all Blacks, with Jim Crow in mind.⁷⁸ If so, Twain's use of the minstrel image to portray Jim would speak to Twain's view of all Blacks.

Twain was not alone in thinking this way. Recall Justice Harlan. Consider President Lincoln, who is renowned for emancipating some slaves,⁷⁹ but who nevertheless believed in the race precept:

I am not, nor ever have been in favor of bringing about in any way the social and political equality of the white and black races—that I am not nor ever have been in favor of making voters or jurors out of negroes, nor of qualifying them to hold office, nor to intermarry with white people. . . . And inasmuch as they cannot so live [in social and political equality], while they do remain together, there must be the position of superior and inferior, I am as much as any other man in favor of having the superior position assigned to the white race.⁸⁰

Using the novel to condemn slavery does not address more complex issues of racism at that time in history which also have implications for current understandings of racism and race

75. Bell, *supra* note 74, at 127–28 (the passage: "Lamenting in 1906 the death of 'the real n_____ show—the genuine n_____ show, the extravagant n_____ show—the show which to me has no peer . . . To my mind it was a thoroughly delightful thing, and a most competent laughter-compeller and I am sorry it is gone.'" (author uses whole word)).

76. MENSCH & MENSCH, *supra* note 3, at 38 (quoting MEL WATKINS, *ON THE REAL SIDE: LAUGHING, LYING, AND SIGNIFYING—THE UNDERGROUND TRADITION OF AFRICAN-AMERICAN HUMOR THAT TRANSFORMED AMERICAN CULTURE FROM SLAVERY TO RICHARD PRYOR* 81 (1994)).

77. See MENSCH & MENSCH, *supra* note 3, at 37–39. See also FISHKIN, *supra* note 72, at 90–92 ("Twain shared with many of his peers, including some of those most outspoken on issues of racial injustice, a largely uncritical response to this most American of institutions [the minstrel show.]").

78. Rush, *supra* note 11.

79. Brown, *supra* note 65, at 855 (noting Lincoln's Proclamation of Emancipation excluded Missouri, Kentucky, Delaware, Maryland, and the anti-Confederate West Virginia Territory).

80. HIGGINBOTHAM, *supra* note 1, at 172 (citing HAROLD HOLZER, *THE LINCOLN-DOUGLAS DEBATES* 246 (1993) (footnote omitted)).

relations. For example, one aspect of Jim's identity throughout the novel is that of a criminal, not only because he is a fugitive slave, but also because he is thought to be an escaped murderer. In one especially exciting adventure for young readers, Huck fakes his own death by making it appear that he has been murdered. Huck reasons that he is free to run away without fear that anyone will try to find him if they think he is dead. Initially, the community thinks that perhaps Pap, Huck's abusive father, is the murderer.⁸¹ When Pap helps look for Huck, however, the community turns its attention to Jim, who runs away shortly after Huck's disappearance.⁸² The following day, however, Pap also disappears and the community is left wondering which of the two men killed Huck.⁸³

The community wants to capture both men and offers a \$300 reward for Jim's capture, but only a \$200 reward for Pap's.⁸⁴ The message is subtle, but clear: catching Jim, a runaway Black slave, is more important to the community than it is for the community to catch Pap, an alleged White murderer of a child. Capturing Jim would have restored valuable property to Miss Watson, Jim's owner.

The equal or higher reward for Jim is consistent with the stereotypical fear among most slavery supporters that "free" Blacks (those who were not restrained) were dangerous criminals,⁸⁵ and this stereotype continues to be reflected in today's society through such practices as racial profiling.⁸⁶ And although Twain's use of Whites' historical image of fugitive slaves as dangerous criminals accurately portrays White society's view, it lacks credibility as applied to Jim because there is no reason to believe Jim is a violent man or would ever hurt Huck, let alone kill him. Miss Watson must have known Jim well enough to know he would never hurt Huck, and certainly

81. HF at Ch. 11.

82. *Id.*

83. *Id.*

84. *Id.*

85. MENSCH & MENSCH, *supra* note 3, at 71 ("In [1835], which corresponds with the first year of *Huck Finn*'s time frame (the novel is set somewhere between 1835 and 1844), the state legislature ordered that free blacks between the ages of seven and twenty-one be bound out as apprentices or servants; the state, in other words, 'enslave[d] them by another name.' And that same year, the legislature also decreed that to live in the state, free blacks had to be licensed; the license, which required them to post bond or have whites put up security, would be in effect only so long as the licensee exhibited 'good behavior.' Clearly, the state could make such demands only because it implicitly classified blacks in the same way Pap did, as criminals.") (quoting LORENZO J. GREENE, GARY R. KREMER, & ANTONIO F. HOLLAND, *MISSOURI'S BLACK HERITAGE* 64 (1993)).

86. See FEAGIN, *supra* note 8, at 147-49. Another area in which racial stereotypes continue to have modern implications is in peremptory challenges. See Kenneth B. Nunn, *Rights Held Hostage: Race, Ideology and the Peremptory Challenge*, 28 HARV. C.R.-C.L. L. REV. 63 (1993).

did not kill him, or she presumably would not have freed Jim in her will.⁸⁷

If Pap were the murderer, which would have been a reasonable suspicion because everyone knew he beat Huck, then Pap's capture would have enhanced the safety of everyone in the community. From the community's perspective, capturing Pap should have been more important than capturing Jim. Once again, Jim is used to portray Blacks in ways that comport with White society's views of them, that is, as dangerous slaves who lacked individuality or humanity.

c. Lynching and Racial Hatred—Another issue that receives little attention is the practice of lynching. Interestingly, the book's first allusion to lynching occurs very early in the novel and involves Jim. Tom Sawyer and Huck sneak out late at night and find Jim sleeping under a tree. Tom suggests they tie him to the tree "for fun,"⁸⁸ but Huck does not go along with the idea because he is afraid they will make too much noise and get caught sneaking around when they should have been in bed asleep.⁸⁹ Notice Huck's rejection of Tom's suggestion to tie Jim to the tree—lynching imagery—had nothing to do with not wanting to hurt Jim.

Three other allusions to lynching involve White men: Colonel Sherburn, the Duke, and the King. Colonel Sherburn faces a mob that wants to lynch him because he shot and killed a man. Sherburn is able to break up the mob by shaming it for thinking that it could successfully lynch a man in any way other than "Southern fashion."⁹⁰ Sherburn says, "If any real lynching's going to be done it will be done in the dark, Southern fashion; and when they come they'll bring their masks, and fetch a *man* along."⁹¹ The mob disperses, presumably because it is daylight and the leader of the mob is characterized by Sherburn as only "*half* a man."⁹²

Both Whites and Blacks were victims of lynchings during the time of the novel and post-Reconstruction.⁹³ Significantly, Blacks who were lynched were lynched *because* they were Black; Whites who were lynched were not lynched because they were White, but

87. Julius Lester, *Morality and Huckleberry Finn*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 199, 203 (James S. Leonard et al. eds., 1992).

88. HF at Ch. 2.

89. *Id.*

90. *Id.* at Ch. 22.

91. *Id.* (emphasis in original).

92. *Id.* (emphasis in original).

93. See MENSCH & MENSCH, *supra* note 3, at 74–76.

rather because of something they did to enrage a mob as in the case of Colonel Sherburn. Similarly, the Duke and the King trick others out of their money and those Whites talk about lynching them. They even succeed at tarring and feathering them when they pull one trick too many.⁹⁴ Whites who lynched Whites at this time were often carrying out their sense of "frontier justice."⁹⁵

The existence of White mobs who carried out frontier justice and White mobs who represented groups like the Ku Klux Klan creates some disagreement among scholars about the message Twain meant to convey in the mob scene involving Sherburn.⁹⁶ Was Twain satirizing the unfairness that existed between a rich man's (Sherburn's) justice and a poor man's?⁹⁷ Or was Twain's referring to the injustice of racial lynchings even though Sherburn was White?

Although either interpretation is possible, Twain's reference to "Southern" lynching directs readers' attention to lynchings in the South and "Southern" lynchings were predominantly focused on Blacks. By one estimate, "[o]f the 4,742 reported lynchings that had taken place by 1968, 3,445 of the victims were black."⁹⁸ About 73% of the lynchings involved White perpetrators and Black victims. Between 1877–1901, "[t]he Ku Klux Klan reached its height . . . and lynchings of blacks became commonplace."⁹⁹ Because *Huckleberry Finn* is about race and is taught primarily to teach students about racial injustice, it seems more likely that Twain's reference to lynchings by masked men at night refers to racial killings.

Any ambiguity on this is erased with Twain's most serious reference to lynching at the end of the novel when Jim reveals himself to a doctor who needs help removing a bullet from Tom Sawyer's leg.¹⁰⁰ A mob wants to lynch Jim to set an example for other runaway slaves,¹⁰¹ but other men are concerned they will have to pay Jim's owner restitution if the owner ever came looking for him.¹⁰²

94. HF at Ch. 29, Ch. 33.

95. MENSCH & MENSCH, *supra* note 3, at 75.

96. *Id.*

97. *Id.*

98. Barbara Holden-Smith, *Lynching, Federalism, and the Intersection of Race and Gender in the Progressive Era*, 8 YALE J.L. & FEMINISM 31, 36 (1996).

99. Rhett S. Jones, *N_____ and Knowledge: White Double-Consciousness in Adventures of Huckleberry Finn*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 173, 175 (James S. Leonard et al. eds., 1992) (author uses whole word).

100. HF at Ch. 42.

101. *Id.*

102. *Id.*

This, coupled with the doctor's word that Jim "ain't a bad n_____" because he put Tom's welfare before his own, quieted the mob,¹⁰³ and soon thereafter, Tom reveals that Jim was freed two months earlier by Miss Watson.¹⁰⁴

Unlike Sherburn, or Jim without the White doctor's help, it was highly unlikely that a Black man about to be lynched could talk his way out of it. A description of a "real Southern" lynching of a man and his wife illustrates a lynching mob's hatred and disregard for the lives of Blacks:

[T]he two Negroes . . . were tied to trees and while the funeral pyres were being prepared, they were forced to hold out their hands while one finger at a time was chopped off. The fingers were distributed as souvenirs. The ears . . . were cut off. Holbert was beaten severely, his skull fractured and one of his eyes, knocked out with a stick, hung by a shred from the socket. Some of the mob used a large corkscrew to bore into the flesh of the man and woman. It was applied to their arms, legs, and body, then pulled out, the spirals tearing out big pieces of . . . flesh every time it was withdrawn.¹⁰⁵

My point here is not that middle or even high-school students should be exposed to the true horrors of slavery because most of them are not emotionally or intellectually mature enough to handle this knowledge. Further, teachers can use other history books to fill in gaps left by *Huckleberry Finn*. Rather, my point is directed at the novel itself. For Twain to portray White mobs as lawless executioners who were just as likely to lynch Whites as they were to lynch Blacks is inaccurate and also minimizes the racial hatred inflicted on Blacks simply because they were Black. While frontier justice lynchings also were barbaric and wrong, equating them with racial lynchings ignores the racial hatred that supported them and many other systemic ways in which White society dehumanized Blacks. Offering readers a neutral understanding of lynchings allows them to escape confronting the racism behind most lynchings.

d. Racism, Slavery and Agency—Employing *Huckleberry Finn* to study history is also problematic because it presents history from

103. *Id.*

104. *Id.*

105. See JUAN F. PEREA ET AL., RACE AND RACES: CASES AND RESOURCES FOR A DIVERSE AMERICA 149 (2000) (quoting RALPH GINZBURG, 100 YEARS OF LYNCHING 63 (1969)).

White society's perspective and not from an Afrocentric perspective. The difference is dramatic on the issue of the slaves' resistance to the institution. Professor Kevin Brown captures this distinction:

From the Afrocentric perspective, the focus on slavery centers around what African-Americans and their ancestors did to resist the institution of slavery. What is important about captivity (slavery) was the struggle by the captives (slaves) against their oppressors. It is important to note that the captives did not sink into helplessness, apathy, and demoralization, rather, they struggled to survive, both spiritually and physically.¹⁰⁶

Slaves resisted their captors through rebellions, defiance, suicide, insurgency, assassinations, poisonings, and assisting others to find freedom.¹⁰⁷

Twain depicts Jim as a slave who lacks agency and who is beholden to Huck, a young teenager. Jim passively submits to Huck's decisions and never strikes out on his own. Perhaps one of the most curious parts of the book centers on Huck and Jim floating past Cairo, where they must exit the Mississippi River and proceed on the Ohio River to reach free territory. With free territory so close, why did Jim not leave Huck? Instead, Jim stays on the raft and they continue to float south. Realistically, it is highly unlikely that a fugitive slave would jeopardize his chance to be free by putting up with Huck's shenanigans. Professor Julius Lester states that Twain's decision to keep Jim floating south with Huck is yet another reflection of white superiority: "A century of white readers have accepted this as credible, a grim reminder of the abysmal feelings of superiority with which whites are burdened."¹⁰⁸ Young readers, especially White readers, learn that Jim's freedom depends on Huck's beneficence: Will Huck be kind to Jim and not reveal his whereabouts?

Additionally, today's students are only one or two generations away from Jim Crow laws. Students' parents may remember and relate to their children the scene at Little Rock's Central High School in 1957 where a White mob wanted to lynch a young Black girl who tried to enter the newly desegregated school:

106. Brown, *supra* note 65, at 854.

107. *Id.* at 854–55.

108. Lester, *supra* note 87, at 202.

When she arrived alone, there were shouts from the mob, which now numbered about five hundred: 'They're here! The n____s are coming!' 'Get her! Lynch her!' The student tried several times to pass through the troops; on her last try, she was stopped with bayonets. The mob yelled, 'No n____ b____ is going to get in our school.' With the troops standing by impassively, someone screamed, 'Get a rope and drag her over to this tree.' A white-haired woman fought her way through the mob, shouting: 'Leave this child alone! Why are you tormenting her? Six months from now you will hang your heads in shame.' The mob hollered, 'another n____-lover. Get out of here!'¹⁰⁹

Young Black readers are placed in an awkward position when their classes read the book, because the inaccurate history lesson that presents slaves as completely disempowered can be interpreted by students of all colors that Blacks are inherently powerless to assert their right to be treated equally with Whites. This is not an accurate portrayal of Blacks. Rather than debunking the precept of White superiority and Black inferiority, many of the novel's lessons reinforce it.

3. *The Interracial Relationship Lesson*—The view that *Huckleberry Finn* is anti-racist rests primarily on one fact: Huck takes a moral stand against slavery by refusing to turn Jim over to authorities. This is an act White society concludes would have betrayed the love Huck and Jim ultimately developed for each other. As explored above, however, one can be anti-slavery and still be racist. Moreover, many abolitionists probably never had any kind of personal relationship with Blacks but still believed that slavery was immoral. Here I address whether Huck and Jim's supposedly loving interracial relationship is worthy of the praise it receives by White society.¹¹⁰ I try to establish that Huck and Jim's relationship is not loving because it lacks respect, trust, and empathy. A deeper analysis of their relationship reveals how vested Huck is in the precept; their relationship is best characterized by the power Huck has over Jim.

109. MENSCH & MENSCH, *supra* note 3, at 3–4 (author uses whole words).

110. See, e.g., Richard K. Barksdale, *History, Slavery, and Thematic Irony*, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN 49, 54–55 (James S. Leonard et al. eds., 1992) ("Twain sought to explore the ironic possibilities of the development of an authentic black-white friendship").

a. *Respect*: “[T]o Feel or Show Honor for”¹¹¹—Professor Jonathan Cohen points out that respect is both an internal feeling and an external expression of one’s regard for another.¹¹² A White person who believes in Blacks’ inferiority not only “feels” this in his heart, but one also can expect his behavior toward Blacks to be disrespectful. Is it possible to feel disrespect and act respectfully? Yes, overt actions can mask inner feelings.¹¹³ Correspondingly, some outward behavior is so disrespectful that it is fair to interpret it as a “heart-felt” expression of one’s inner feelings of disrespect. Is it possible to feel respect and yet act disrespectfully? Yes, and one would expect the perpetrator to feel regret and remorse. Prof. Cohen uses the rebellious teenager as an example.¹¹⁴ Huck’s feelings and behavior toward Jim show his disrespect for Jim in the fullest sense of the concept. A relationship that lacks respect is not a loving relationship.

The primary example of Huck’s lack of respect for Jim is his use of the epithet. To call Jim repeatedly by the epithet is so highly disrespectful that it can only be interpreted as an external expression of Huck’s inner feelings. “The wrong of this dignitary affront consists of the expression of a judgment that the victim of the racial slur is entitled to less than that to which all other [humans] are entitled.”¹¹⁵

Many additional examples demonstrate Huck’s disrespect for Jim, especially if their relationship is interpreted as a father/son one as it is by many readers. For example, Lionel Trilling wrote in his review, “in Jim [Huck] finds his true father. . . . The boy and the Negro slave form a family, a primitive community—and it is a community of saints.”¹¹⁶ Other scholars also characterize Huck and Jim’s relationship as a loving one like father and son,¹¹⁷ and *Huckleberry Finn* describes several scenes that comport with this.¹¹⁸

111. WEBSTER’S NEW WORLD STUDENT’S DICTIONARY 758 (1996). For an excellent analysis of the concept of respect, see Jonathan R. Cohen, *When People are the Means: Negotiating with Respect*, 14 GEO. J. LEGAL ETHICS 739 (2001).

112. See Cohen, *supra* note 111, at 753–54.

113. *Id.* at 755–56.

114. *Id.* at 755.

115. Delgado, *supra* note 33, at 163.

116. Lionel Trilling, *The Greatness of Huckleberry Finn*, in *HUCKLEBERRY FINN: TEXT, SOURCES, AND CRITICISM* 193 (Kenneth S. Lynn ed., 1961).

117. See, e.g., Henry, *supra* note 44, at 36 (“Jim becomes a surrogate father to Huck . . .”).

118. See Woodard & MacCann, *supra* note 57, at 147. For example, Jim allows Huck to sleep through his turn at steering the raft, Jim protects Huck from seeing Pap’s dead body, and Jim took charge of cooking their meals while on the raft. HF at Ch. 23. A loving parent would act in similar ways.

In the overall picture, however, Huck's disrespect for Jim does not comport with this interpretation. Rather, their relationship is characterized by a power imbalance reflective of master/slave. This is the quintessentially disrespectful relationship. If Twain had wanted to present their relationship as loving, he could have defied the legal norms that defined them as *de facto* master and slave. Instead, Twain replicates the extant legal structure of their relationship in their private relationship on the river. Huck, the child, is the *de facto* parent of Jim, a grown man.¹¹⁹ From beginning to end, Huck may ponder the possibility that Jim is a human being, but Huck consistently treats him as an object. This is both internalized and expressive disrespect.

Is it possible that Huck is the rebellious teenager and that he really respects Jim and is just acting out, as Prof. Cohen has suggested? This possibility fails for at least two reasons. First, Huck's rebellion is against being civilized and has nothing to do with Jim. Second, Huck's behavior toward Jim is inconsistent with an underlying respect and love, especially as those terms are understood in a loving father/son relationship.

A poignant example illustrates this. One night, their raft is hit by a steamboat tossing Huck and Jim into the river and night's blackness.¹²⁰ Huck calls out for Jim to no avail, makes his way to land, and is taken in by the Grangerford family. It is unclear how much time Huck spends with the Grangerford's, but it is at least several days, possibly weeks or longer. During Huck's stay, Twain never once has Huck reflect on Jim or express any sorrow about Jim's presumed drowning. In fact, the story continues merrily along without any reference to Jim, and Huck seems totally unaffected by Jim's apparent death. Even if Twain intended suspense, it is troublesome that he did not have Huck express *any* concern about his *de facto* father or even sadness to think he might have died in the accident. If Huck truly respected and even loved Jim, he could not have been so indifferent to Jim's presumed death. The death of a

119. MENSCH & MENSCH, *supra* note 3, at 105 ("No matter what virtues Jim may have, none can compensate for the fact that—in this iconic white-black relationship—the white boy appears more adult, that is, more intelligent, than the black man."). See also Woodard & MacCann, *supra* note 57, at 146 (When Tom Sawyer enters the book, "Jim remains about the same—a victim and a playmate of children, a clown to be either admired or toyed with as the boys' maturity or lack of maturity dictates. Jim . . . gives no sign of perceiving himself as anything but a child among children. . . .").

120. HF at Ch. 16.

parent surely would cause tremendous sorrow to a merely rebellious teen who otherwise respects and loves his parent.

For the most part, however, Jim and other Blacks are largely invisible in the novel—both literally and figuratively. For example, after an explosion on a boat, Aunt Sally asks if anyone got hurt and Huck replies “no” even though a Black man died.¹²¹ Another example is Huck’s inability to understand Jim’s love and affection for his own family, which is so deep that Jim talks about stealing his wife and children out of slavery. That kind of talk angers Huck,¹²² and illustrates his and most Whites inability to accept Blacks’ humanity. An equally poignant example occurs when Tom Sawyer is shot in the leg and is tended to by a doctor. Jim reveals his presence to the doctor in order to help. Jim’s willingness to sacrifice his freedom for Tom’s health causes Huck to state, “I knowed he was white inside.”¹²³ This is a dramatic statement of the race precept: the only way Jim’s humanity can be “seen” by Huck (White society) is to transform Jim into a White person. The humanity of Blacks *as Blacks* remains invisible in the novel, which also debunks critics’ praise for the book because Huck is able to “see” Jim’s humanity when White society cannot.¹²⁴ Indeed, transforming Jim into a White man at the end of the novel seriously defeats Twain’s purported purpose to show Huck’s moral development. If Huck does not respect Jim as a Black man, he does not love him.

On the other hand, Huck’s intentional cruelty to Jim on occasions makes a strong argument that Huck is able to mistreat Jim because he is Black and Huck does not respect or love him. For example, Huck puts a dead rattlesnake in Jim’s bed and Jim becomes seriously ill when a live one joins the dead one and bites Jim.¹²⁵ Other times the cruelty is psychological and involves belittling or shaming Jim. For example, Huck makes fun of Jim because Jim does not understand why some people speak French instead of English.¹²⁶ Huck decides that the best way to explain the concept of foreign languages to Jim is to “come down to Jim’s level” and point out that animals make different sounds so it is logical that people would too. Understandably, the analogy makes no sense to Jim and

121. *Id.*

122. *Id.* at Ch. 32.

123. *Id.* at Ch. 16.

124. MARC JEFFREY ABERNATHY, ‘I KNOWED HE WAS WHITE INSIDE’: HUCKLEBERRY FINN AND STEREOTYPE IN THE TWENTIETH CENTURY SOUTHERN NOVEL (1991) (unpublished Ph.D. Dissertation, University of Florida) (on file with author).

125. HF at Ch. 10.

126. *Id.* at Ch. 14.

Huck gives up and concludes “you can’t learn a n_____ to argue.”¹²⁷ However, slaves understood that people spoke different languages because originally, slaves had spoken the languages of their native lands.¹²⁸

Huck also belittles Jim by trying to explain the biblical story of King Solomon.¹²⁹ Twain writes the story so that Jim thinks Solomon’s advice is literally to make the two mothers chop the baby in half. Jim tries to convince Huck that half a child is worthless, especially if a man has only a few. To the reader, of course, it is ridiculous to suppose that a grown man not only would take Solomon literally, but also that he would not be able to engage in abstract thinking.

Perhaps the best example of Huck’s disrespect for Jim as a human being is the trick Huck plays on Jim when Huck sneaks back onto the raft after they become separated and Jim thinks Huck might be dead. Rather than announce his return, Huck tries to convince Jim that he has been asleep on the raft the whole time and that Jim’s imagination is playing tricks on him. Jim is emotionally wrought with pain thinking that Huck has died. This is in contrast to Huck’s indifference when Jim disappeared after their raft crashed into a steam boat. This contrast could mean Jim loves Huck even though Huck does not love Jim. Such unrequited love between master and slave is another aspect of the race precept stemming from the “‘myth of the benign plantation.’”¹³⁰ This myth embraced the notion that “‘[s]laves loved the master. They dreaded freedom because, presumably, they were incapable of *self* possession. When forced to leave the plantation they longed only to return.’”¹³¹

Although Huck seems remorseful for playing the trick on Jim, true remorse would require “heart-felt” respect. Huck’s apology, in contrast, is seeded in the race precept. As Huck says:

It was fifteen minutes before I could work myself up to go and humble myself to a n_____; but I done it, and I warn’t sorry for it afterward, neither. I didn’t do him no more mean tricks,

127. *Id.*

128. MENSCH & MENSCH, *supra* note 3, at 52.

129. HF at Ch. 34.

130. MENSCH & MENSCH, *supra* note 3, at 38 (quoting ALEXANDER SAXTON, *THE RISE AND FALL OF THE WHITE REPUBLIC: CLASS POLITICS AND MASS CULTURE IN NINETEENTH-CENTURY AMERICA* 177 (1990)).

131. *Id.*

and I wouldn't done that one if I'd 'a' knowed it would make him feel that way.¹³²

Notwithstanding his apology, Huck's disrespectful behavior toward Jim never ends.

*b. Trust: "[A] Strong Belief That Some Person . . . is Honest or can be Depended on"*¹³³—Feelings of mutual trust are essential in a loving relationship and early in the novel it appears that Huck and Jim do trust each other. When they discover each other on Jackson's Island, Huck tells Jim he "warn't afraid of *him* telling people where I was."¹³⁴ Shortly thereafter, Jim tells Huck he will explain to him why he is on the Island if Huck promises not to tell. "Blamed if I would, Jim" said Huck. "Well, I b'lieve you, Huck. I—I run off."¹³⁵ Notwithstanding their promises of loyalty, I suggest Jim could not trust Huck.

From a Teenager's Perspective—Trust and loyalty among teenagers is particularly important and they take oaths of loyalty quite seriously. Early in the book, Tom Sawyer starts the "Tom Sawyer Gang," and to belong, "[e]veryone . . . has got to take an oath, and write his name in blood."¹³⁶ The oath reflects the boys immaturity, but also their sincerity in the importance of being loyal to the Gang. After Tom reads the oath, the boys respond, "it was a real beautiful oath,"¹³⁷ and they all commit to the Gang by signing the oath with blood from their pricked fingers.¹³⁸

Trust is just as important for today's pre-teens and teens as it was for Tom's Gang. For example, following a school shooting in San Diego in 2000, students who knew that Andy Williams was going to kill some of *their friends* did not alert authorities, partly because they thought he was joking, partly because they were afraid, and partly because they did not want to be tattletales and betray the trust of Williams or other students.¹³⁹ If they had spoken up, Andy might not have killed or injured their friends.

From a Fugitive Slave's Perspective—Jim trusts Huck not to return him to slavery, and to get him to a free state. Both Ohio and

132. HF at Ch. 15 (uses whole word).

133. WEBSTER'S NEW WORLD STUDENT'S DICTIONARY 960 (1996).

134. HF at Ch. 8 (emphasis in original).

135. *Id.* (emphasis in original).

136. *Id.* at Ch. 2.

137. *Id.*

138. *Id.*

139. See "What U.S. newspapers are saying," UNITED PRESS INTERNATIONAL, Mar. 8, 2001.

Illinois were part of the Northwest Territory, which prohibited slavery as part of the Missouri Compromise.¹⁴⁰ Twain chooses Ohio¹⁴¹ as Jim and Huck's destination even though Illinois is only one-fourth of a mile from Jackson Island where the two originally hid before they started their river journey.¹⁴² One adventure actually takes Huck to someone's home in Illinois while Jim stays on the raft.¹⁴³

Twain's choice to have the two travel to Ohio instead of Illinois has received some criticism and the choice suggests Twain was not sincerely interested in having Jim reach a free state.¹⁴⁴ Admittedly, Twain's choice is puzzling, but there are at least two aspects of this choice that cause deeper concern. First, if Jim had made it to either free state, legally he would not have been free. The Fugitive Slave Act provided assurances to slave owners that the federal government would assist them in recapturing run away slaves.¹⁴⁵ Giving readers an impression that slaves only had to escape to a free state to secure their freedom is another way in which Twain avoids the historical and harsh realities that attached to being Black in the United States during slavery. Indeed, many free Blacks were captured and sold into slavery.¹⁴⁶

Second, the Supreme Court in *Prigg v. Pennsylvania* held that a free state's law providing procedural protections to free Blacks accused of being run-away slaves was an unconstitutional interference with a slave owner's rights under the Fugitive Slave Act.¹⁴⁷

Even with Ohio as their destiny, Huck and Jim travel over 1100 miles trying to get there from Missouri.¹⁴⁸ If Huck (Twain) had wanted Jim to get to Ohio, he would not have missed Cairo.¹⁴⁹ Once Huck and Jim float by Cairo, it seems the journey to free Jim

140. See *Prigg v. Pennsylvania*, 41 U.S. (16 Pet.) 539 (1842). The U. S. Supreme Court held the Missouri Compromise unconstitutional in *Dred Scott v. Sandford*, 60 U.S. 393 (1856).

141. HF at Ch. 15.

142. *Id.* at Ch. 8.

143. *Id.* at Ch. 11.

144. See, e.g., MENSCH & MENSCH, *supra* note 3, at 40–41 (noting the conflict in Jim's decision not to go to Illinois because slave hunters were looking for him when they also were looking for him all up and down the River and on Jackson Island); Jane Smiley, *Say It Ain't So, Huck*, HARPER'S, Jan. 1996, at 61–67.

145. See *Prigg*, 41 U.S. at 620–21.

146. See Barbara Holden-Smith, *Lords of Lash, Loom, and Law: Justice Story, Slavery, and Prigg v. Pennsylvania*, 78 CORNELL L. REV. 1086, 1087 (1993).

147. *Prigg*, 41 U.S. at 624–25.

148. HF at Ch. 42.

149. Lester, *supra* note 87, at 202.

becomes irrelevant. Through no effort on Huck's part, Jim becomes a free man because Miss Watson frees him in her will.¹⁵⁰ Moreover, this happens two months before Jim learns of it;¹⁵¹ two months of freedom lost because Huck, influenced by Tom Sawyer, makes a game out of getting Jim to freedom. Jim may have been able to trust Huck not to return him to slavery, but Huck did keep Jim in slave territory and unnecessarily kept him a runaway slave for two months. Jim's trust in Huck to get him to a free state clearly is misplaced.

c. *Empathy*: "[T]he Ability to Share Another's Emotions or Feelings"¹⁵²—A third essential emotion to a loving relationship is empathy. People who love each other understand each other's emotions on deep and intimate levels. This is especially true for parents and children whose love for each other is inexplicably profound.

Huck actually is quite sensitive in many ways. For example, he knows the loneliness of being locked up in a cabin and left for days waiting for Pap's return.¹⁵³ He thinks about how slowly the time passes.¹⁵⁴ As the raft drifts by houses with lights on during the night, Huck thinks of the sick people inside them.¹⁵⁵ Moreover, Huck's sensitivity evidences his ability to empathize with others, which Twain shows in several ways. Strangely, when Huck and Jim come upon a dead body, Huck tries to imagine what it would be like to be a murderer and he feels bad for the people who murdered the victim in front of them.¹⁵⁶ He also feels terrible for the sisters who are swindled out of their inheritance by the Duke and the King.¹⁵⁷ Given Huck's sensitivity and empathy in those situations, some of which involve strangers or people Huck hardly knows, it becomes even harder to understand his lack of sensitivity or empathy for Jim, someone he is supposed to love. Indeed, his general lack of empathy for Jim undermines claims that Huck loves Jim.

To highlight, regardless of how one interprets *Huckleberry Finn*, it is reasonable to read it as a racist novel. On this issue, then, Whites and Blacks may disagree forever. The important question becomes why White society insists that its interpretation should overrule

150. HF at Ch. 42.

151. *Id.*

152. WEBSTER'S NEW WORLD STUDENT'S DICTIONARY 285 (1996).

153. HF at Ch. 6.

154. *Id.*

155. *Id.* at Ch. 28. See also Trilling, *supra* note 116, at 194.

156. HF at Ch. 13.

157. *Id.* at Ch. 26.

Blacks' interpretation even though the novel causes emotional segregation. Part III tries to unravel this mystery.

III. EMOTIONAL SEGREGATION, *HUCKLEBERRY FINN* AND THE CANON

A. White Society's Attachment to the Novel

Teachers feel justified in requiring their students to read *Huckleberry Finn* because it is a highly revered book throughout America and even the world. Teachers, parents, and students want to read and be knowledgeable about America's "best" literature. Selecting books from the canon to include in curricula seems like a reasonable approach to lesson planning.

Teaching *Huckleberry Finn* because it is canonical, however, fails to address more fundamental questions: why is it canonical and why does it enjoy an especially revered place in the canon? In asking these questions, I am not concerned whether the novel meets the "literary criteria" that govern admission to the canon.¹⁵⁸ Often it is difficult to determine whether critics' acclaim for the novel rests on substantive literary standards or merely reflects more sentimental reasons for canonizing it. For example, Lionel Trilling, a literary critic from the 1940s, describes *Huckleberry Finn* as a "masterpiece, . . . one of the world's great books and one of the central documents of American culture."¹⁵⁹ Some critiques focus on its literary shortfalls. For example, some scholars, including Trilling and Hemingway, think that the ending of *Huckleberry Finn* is a literary failure because it is unfocused and poorly written.¹⁶⁰ Leo Marx called the conclusion a "farce."¹⁶¹ Recall that Ernest Hemingway believed that all modern American literature comes

158. The criteria for admission to the canon is criticized by some for its narrow focus. See generally *THE CANON IN THE CLASSROOM: THE PEDAGOGICAL IMPLICATIONS OF CANON REVISION IN AMERICAN LITERATURE* xi (J. Alberti ed. 1995) (focusing on including authors of color, among others, in literary critiques) [hereinafter *CANON IN THE CLASSROOM*].

159. Trilling, *supra* note 116, at 192. Given that the book reveals so much of "American culture," the argument for not canonizing the book, let alone hypercanonizing it, seems compelling. Trilling was all too anxious to ignore the failure of the ending of the book and stated that "[i]n form and style, *Huckleberry Finn* is an almost perfect work." *Id.* at 196.

160. Trilling, *supra* note 116, at 196.

161. Leo Marx, *Mr. Eliot, Mr. Trilling, and The Adventures of Huckleberry Finn*, in *HUCKLEBERRY FINN: TEXT, SOURCES AND CRITICISM* 205 (Kenneth S. Lynn ed., 1961).

from *Huckleberry Finn*.¹⁶² Other scholars and critics refer to these short, descriptive praises of the novel without additional reasoning, indicating their acceptance of them.¹⁶³

In contrast, Jonathan Arac, a modern scholar and critic, characterizes the heightened praise given to the novel as hypercanonicity, meaning the book's lofty place in the canon reflects an exaggerated statement about its literary value. He states, "[h]ypercanonization involved teaching students to appreciate *Huckleberry Finn* in ways that it had never been appreciated before."¹⁶⁴ Thus, apart from *Huckleberry Finn*'s literary value as measured by canon reviewers, and given Arac's observation, the history and circumstances surrounding the novel's canonicity reveal important reasons for America's deep attachment to it. For purposes of understanding White society's emotional attachment to the novel, this is the important analysis.

The placement of *Huckleberry Finn* in the canon of American literature developed in three stages. When it was introduced in 1885, positive reviews appeared in the *Atlantic Monthly* and *Century* magazines.¹⁶⁵ Most critics discount *Century*'s review because of its vested interest in the book's success; the magazine had published parts of it before it appeared as a book.¹⁶⁶ But for these two positive reviews, the book was either ignored or negatively reviewed.¹⁶⁷ Two major Boston newspapers concluded that it was not worth reading because it was written with a "spirit of irreverence," it was "flat," and "coarse."¹⁶⁸ One member of the Concord Public Library committee regarded it as the "veriest trash, . . . dealing with a series of experiences not elevating."¹⁶⁹ Louisa May Alcott also considered it trash,¹⁷⁰ and many critics considered it to be a book of low moral value.¹⁷¹

The expressed negativism surrounding the book, however, did not develop because White society thought the book was racist, or

162. ARAC, *supra* note 4, at 5.

163. See, e.g., JOCELYN CHADWICK-JOSHUA, THE JIM DILEMMA: READING RACE IN HUCKLEBERRY FINN xv, 6 (1998) (discussing the views of Hemingway and Trilling, respectively).

164. ARAC, *supra* note 4, at 6.

165. *Id.* at 5.

166. See *Huckleberry Finn and the Concord Public Library* (1885), in HUCKLEBERRY FINN: TEXT, SOURCES AND CRITICISM 171 (Kenneth S. Lynn ed., 1961).

167. See *id.*

168. *Id.* (quoting THE BOSTON TRANSCRIPT, April 4, 1885).

169. *Id.* (quoting THE BOSTON TRANSCRIPT, March 17, 1885.)

170. Wallace, *supra* note 53, at 16.

171. See *Huckleberry Finn and the Concord Public Library*, *supra* note 166, at 171.

in the parlance of the times, prejudiced against Blacks.¹⁷² Modern critics note that "the pertinent objection to [the epithet] was its vulgarity, not its racist implication."¹⁷³ Yet the silence about the racial implications of the book also spoke directly to White society's racism toward Blacks. For example, supporters of slavery or Jim Crow laws would not have related to Huck's decision to help Jim escape slavery. Other readers undoubtedly were reluctant to be drawn back into thinking about slavery so soon after the Civil War.¹⁷⁴ Moreover, Jim Crow laws existed in almost every aspect of American life during Twain's time and White society probably was uncomfortable with the book because it made Whites think about the races mixing in ways that violated social norms founded on constructing and maintaining physical and emotional segregation of Blacks from Whites. This was explicitly sanctioned by the *Plessy* Court and implicitly sanctioned by Justice Harlan in his *Plessy* dissent. Because most Whites were deeply offended to think of Blacks riding in Whites' railroad cars, it also would have been offensive to read about a friendship between a slave and a young White boy. The initial negative reactions to the book based on this objection supports the conclusion by many of today's critics that the book is subversive in a morally positive way.¹⁷⁵ A closer examination makes this position difficult to defend.

The second wave of attention received by the book came in the early to middle 1900s when several avant-garde authors like Gertrude Stein and Ernest Hemingway took an interest in the book.¹⁷⁶ Hemingway's position that the book formed the basis for modern American literature invited wide-spread support for the book.¹⁷⁷

Arac suggests the book's canonization coincided with its hyper-canonization, which started in 1948 and was solidified by the middle of the 1960s with the attention it received from three

172. Kenny J. Williams, *Adventures of Huckleberry Finn; or, Mark Twain's Racial Ambiguity, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN* 228, 229 (James S. Leonard et al. eds., 1992) ("Interestingly, but not unexpectedly, Twain's early critics and readers were not greatly concerned about the racial implications of the novel.").

173. Leonard & Tenney, *supra* note 54, at 6-7 (author uses whole word).

174. Barksdale, *supra* note 110, at 51 ("whites . . . take no joy in remembering slave times").

175. ARAC, *supra* note 4, at 138.

176. *Id.* at 6.

177. Arnold Rampersad, *Adventures of Huckleberry Finn and Afro-American Literature, in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN* 216, 216 (James S. Leonard et al. eds., 1992).

scholars: Lionel Trilling, Walter Blair, and Henry Nash Smith. Trilling was “a New York-based cultural critic”¹⁷⁸ who wrote an introduction to the Rinehart College Edition of the book and this “mark[ed] a decisive turn in discussion of Twain’s novel.”¹⁷⁹ Blair was a Chicago scholar who produced a “massive contextual study,” *Mark Twain and Huck Finn* in 1960.¹⁸⁰ Finally, Smith was an historian at Berkeley who wrote a book on Twain that “many still consider the best single overall discussion of *Huckleberry Finn*.”¹⁸¹ Situated throughout the country, the three professors’ works received wide circulation, elevating it into and to the top of the canon of American literature.¹⁸² Trilling, Blair, and Nash provided *Huckleberry Finn* with the academic respectability and clout that assured its admission into America’s classrooms.¹⁸³

Huckleberry Finn’s inclusion in the canon depended on evaluations by literary critics and college professors, but the hypercanonization occurred because of two other factors that reflected the racial climate in America: America wanted an international image as an anti-racist nation, and, simultaneously, it wanted to maintain the race precept within its borders because it still legalized *de jure* segregation. Focusing on the United States’ international image after WWII, Americans wanted something to symbolize to the world their commitment to racial fairness and justice. Many WWII veterans attended colleges and universities during this time and many of them had witnessed first-hand the atrocities Nazism caused.¹⁸⁴ The Nation’s experience fighting against Nazism translated into a nation-wide movement for an anti-racist identity to distinguish the United States from Germany.¹⁸⁵ In fact, the word “racism” was coined in the 1930s to describe “Nazi policies and practices.”¹⁸⁶ Arac suggests that *Huckleberry Finn* began to “serve as an icon of civil rights consciousness” to meet this goal.¹⁸⁷ Interestingly, a prominent editorial praising the book came out in the New York Times around the time of *Brown*.¹⁸⁸ In the editorial, “Huck Finn’s Friend Jim,” the Times posits that by

178. ARAC, *supra* note 4, at 7.

179. *Id.* at 118.

180. *Id.* at 7–8.

181. *Id.* at 8.

182. *Id.* at 7–8.

183. *Id.* at 8.

184. *Id.* at 108–09.

185. *Id.*

186. *Id.* at 109.

187. *Id.* at 9.

188. *Id.* at 25.

portraying Jim as “‘lovable and admirable’” and whites as “‘swindlers,’” Twain’s novel is “‘one of the deadliest satires’ ever written.”¹⁸⁹

Just as the novel was used to create an international image of national racial cohesion, it also served to maintain the race precept within the country. How did this happen? First, White society renewed its insistence during this period that racism ended with the abolishment of slavery. For example, in 1948, Elizabeth Hardwick, who would become the founder of the New York Review of Books, wrote that only communists and “masochistic” African Americans were responsible for the “‘frenzy of indescribable perversity’ in which ‘lynchings’ and ‘humiliating segregation’ were dwelt upon.”¹⁹⁰ At best, this view could be interpreted to reflect an understanding by Hardwick and other “liberal intellectuals”¹⁹¹ that racism only occurred within the institution of slavery because *de jure* segregation still existed. From this perspective, “patriotic” Whites and “mentally healthy” African Americans were expected to be above even talking about lynchings and segregation, never mind working to stop those practices because “everything necessary [to achieve racial equality] had already happened.”¹⁹²

Consider the view of Oscar Handlin, described as “the most authoritative American historian of ethnic groups,” who wrote during this time frame.¹⁹³ He acknowledged that Blacks still suffered racial inequality in the 1950s, but opined that America was no longer conscious of race or hateful of Blacks.¹⁹⁴ This is a dramatic example of White denial of racial inequality. Handlin agreed, at least implicitly, with Hardwick that the persistent dehumanization of Blacks through Jim Crow laws, as well as through lawless acts such as lynchings, did not fall within the definition of racism.

The Hardwick-Handlin understanding of racism, shared by other Whites, laid the foundation for an even more significant step toward maintaining the race precept. Specifically, during the height of the civil rights movement, White society reverted to the *Plessy* Court’s view that the source of the race precept was Blacks’

189. MENSCH & MENSCH, *supra* note 3, at 7–8 (quoting *Huck Finn’s Friend Jim*, N. Y. TIMES 2, Sept. 13, 1957, at A22).

190. ARAC, *supra* note 4, at 12 (quoting Elizabeth Hardwick, *Faulkner and the South Today*, in FAULKNER: A COLLECTION OF CRITICAL ESSAYS 226, 230 (1966).)

191. *Id.* at 11.

192. *Id.*

193. *Id.* at 12.

194. *Id.*

self-imposed feelings of inferiority. Once again, White society did not accept responsibility for the persistent subordination of Blacks through institutional racism. Moreover, the groundwork for shifting the blame for racial inequality from institutions to individual Blacks emanated from the President and his top advisors.¹⁹⁵ A speech written by Richard Goodwin and Daniel Patrick Moynihan, and delivered by President Johnson at Howard University in 1965 illustrates this attitude:

[E]qual opportunity is essential, but not enough. Men and women of all races are born with the same range of abilities. But ability is not just the product of birth. Ability is stretched or stunted by the family you live with, and the neighborhoods you live in, by the school you go to and the poverty or the richness of your surroundings. It is the product of a hundred unseen forces playing upon the infant, the child, and the man.¹⁹⁶

Professor Steven Steinberg posits that this marked the beginning of "a drastic policy reversal: the focus would no longer be on white racism, but rather on the deficiencies of Blacks themselves."¹⁹⁷ Because many factors contributed to the persistent racial inequality, White society began to believe that individual Blacks had to confront their own situations and pull themselves up by their bootstraps. Remarkably, President Johnson's speech was given only eleven years after *Brown*. Not even one generation had a chance to dismantle institutional racism before the focus shifted. From this view, Blacks during the post-Jim Crow era, like the *Plessy* era, have only themselves to blame if they continue to lag behind Whites in the ways Harlan predicted they would.

Defining racism to include only intentional acts of harm and "blaming the victim" for persistent racial inequality were the primary rationales Whites of goodwill used at the time to distance themselves from the problem of racial inequality.¹⁹⁸ Under both rationales, Whites of goodwill did not cause the problem and felt

195. See STEPHEN STEINBERG, *TURNING BACK: THE RETREAT FROM RACIAL JUSTICE IN AMERICAN THOUGHT AND POLICY* 115 (1995).

196. Lyndon B. Johnson, *To Fulfill These Rights*, Address at Howard University (June 4, 1965), in STEINBERG, *supra* note 195, at 114 (citation omitted); see also SHARON E. RUSH, *Sharing Space, Why Racial Goodwill Isn't Enough*, *supra* note 35, at 16–18 (1999) (discussing the effects of this speech).

197. STEINBERG, *supra* note 195, at 115.

198. See Charles Lawrence, *The Id, the Ego, and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

no responsibility to help solve it. From this view, the Court's decision in *Brown* merely emphasized how truly far America had come from the racist days of slavery. Moreover, Joseph Krutch's review praising *Huckleberry Finn* in the *New York Times* on the Sunday following the *Brown*¹⁹⁹ decision could not have been more timely. What better and more convenient way to demonstrate America's commitment to educational equality for Blacks as espoused in *Brown* than to adopt *Huckleberry Finn* as an educational tool to emphasize this commitment by including it as required reading material in America's public schools?²⁰⁰ Educators had the support of renown authors, literary critics, scholars, journalists, and a whole generation of college students who attested to the book's worthiness of inclusion in the canon of American literature as an anti-racist classic.

B. Black Society's Resistance to the Novel

Because the novel symbolized America's worldwide anti-racist image, who could *credibly* argue that the book should not be taught in public schools because it is racist and hurtful to Black students? Certainly not Black parents. Within three years of *Brown*, the *New York Times* reported a story about the NAACP protesting the inclusion of *Huckleberry Finn* in the curriculum of a public school in New York.²⁰¹ "The NAACP's 1957 protest against *Huck Finn*'s 'racial slurs' was undoubtedly made in response to complaints from parents"²⁰² and the school board did temporarily remove the book from the curriculum.²⁰³ Coincidentally, about the same time, Whites were protesting *Brown*'s requirement that the public schools in Little Rock, Arkansas be physically integrated. The *New York Times* published an article associating the two protests and implying that the New York school board "quietly dropped" the book to avoid protests like those in Little Rock—not because of the parents' objections.²⁰⁴ The *Times* editorial criticized the school board for its decision and reconfirmed *Huckleberry Finn*'s greatness

199. ARAC, *supra* note 4, at 25.

200. MENSCH & MENSCH, *supra* note 3, at 5–6.

201. ARAC, *supra* note 4, at 64.

202. MENSCH & MENSCH, *supra* note 3, at 11.

203. *Id.* at 4.

204. *Id.* at 8–10.

as an anti-racist classic because it exposed "some of the nonsense that goes on with the inequality of races."²⁰⁵

Again, the book was used as proof of America's anti-racism to counter the attack on it made by Blacks in New York at a time when proof also was needed to counter the protests in Little Rock that evidenced America's deep belief in the race precept. Because the book had been adopted as the symbol of America's anti-racism, and because it also served to promote the racial status quo even though many Whites identified as people of goodwill toward Blacks, White society felt compelled to defend its evaluation of the book against accusations by Blacks that the book was racist. Professor Arac states it precisely:

Liberal white American opinion identifies with the wonderful boy Huck. Even though his society was racist, he was not, and so 'we' are not. For African Americans to challenge this view is to challenge 'us' just where 'we' feel ourselves most intimately virtuous, and it is also to challenge Mark Twain, and thereby the America he 'quintessentially' represents.²⁰⁶

To quell the 1957 protest, all White America had to do was pull *Huckleberry Finn* from its hypercanonicity shelf, remind everyone that it proved America was anti-racist, and then dismiss Black parents' objections to including the novel in public school curricula. By far, the most arrogant reasons for discounting Black society's view was given by Justin Kaplan, who said:

It seems unlikely that anyone, of any color, who had actually read *Huckleberry Finn*, instead of merely reading or hearing about it, and who had allowed himself or herself even the barest minimum of intelligent response to its underlying spirit and intention, could accuse it of being 'racist' because some of its characters use offensive racial epithets.²⁰⁷

Blaming Blacks for their inability to understand *Huckleberry Finn* was consistent with America's overall policy to blame them for their continued subordinated status. White society's strategy apparently

205. *Id.* at 6–10. See also ARAC, *supra* note 4, at 65.

206. ARAC, *supra* note 4, at 13.

207. *Id.* at 22 (quoting Justin Kaplan, BORN TO TROUBLE: ONE HUNDRED YEARS OF HUCKLEBERRY FINN 18 (1985)). Justin Kaplan is an independent scholar who introduced the 1996 edition of *Huckleberry Finn*; he was given the Pulitzer Prize and National Book Award in 1967 for his book, MR. CLEMENS AND MARK TWAIN).

succeeded and, but for a few other protests between 1957 and 1982, there seems to have been no protests focusing on the teaching of *Huckleberry Finn* in public schools that were newsworthy, although some parents continued their struggle to persuade educators that the book disrespected Blacks in ways that made Black students feel inferior to their White classmates.²⁰⁸ These parents understood, and struggled to eliminate emotional segregation from the mandatory reading of *Huckleberry Finn* in their children's public schools.

For example, Professor Robin Barnes, an African American scholar and mother, describes her recent effort to persuade White parents at her children's school that the book is racist and should not be taught. She asked parents and teachers to imagine that the grandfather in the movie *Heidi* derogatorily referred to Heidi by the word "b____" over 213 times. Paraphrasing, Prof. Barnes then asks the other parents if they would want the film to be part of the required curriculum.²⁰⁹ Would *Heidi* be so essential to children's education that men would insist that they read it, especially as an anti-sexist movie? One can play this out with other groups. Imagine a book held out as a classic that repeatedly uses anti-Semitic words, such as "k____," to describe Jews. No matter what group is targeted or how highly praised the book is, parents whose children are subjected to similar emotional segregation would want the book excluded. All loving parents would try to protect their children from unnecessary harm, particularly if it is emotional segregation.

Professor Barnes' and others' arguments that *Huckleberry Finn* is racist and hurtful are poignant. Interestingly, some modern critics acknowledge how hurtful *Huckleberry Finn* is for Black students to read, but they proceed to exalt the book's virtues as if the harm is beside the point. For example, Professor Shelley Fisher Fishkin notes, "reading *Huckleberry Finn* in an American secondary-school classroom can be an enormously painful experience for a black student."²¹⁰ This observation, the crux of Black society's argument

208. *Id.* at 67.

209. See Robin D. Barnes, *Black America and School Choice: Charting a New Course*, 106 YALE L.J. 2375, 2396 (1997) ("In almost every video store in America, in the 'classics' section, is the movie *Heidi*. The story depicts an unlovable old man whose heart is softened by the love and encouragement of his orphaned granddaughter. Americans have watched the movie for years and gained stronger appreciation of the role of intergenerational support in their lives. But if for some reason, the old man had referred to his granddaughter as "the little b____" or "my b____" or "that b____" 213 times, certainly school administrators would not require students to watch the film.").

210. FISHKIN, *supra* note 72, at 106-07.

that the book should not be taught in public schools, appears well over half-way into an analysis Fishkin undertook because:

there is something about *Huckleberry Finn* that sets it off from Twain's earlier work and makes it seem less a continuation of the art he had been developing and more of a quantum leap forward; its unrivalled place in both the Twain canon and in the American literary canon reflects this special status. In *Huckleberry Finn* something new happened that would have an enormous impact on the future of American literature. That "something new" has never been adequately accounted for. My suggestion is this: here, more than in any other work, Twain allowed African-American voices to play a major role in the creation of his art. This fact may go a long way toward clarifying what makes this novel so fresh and so distinctive.²¹¹

Professor Fishkin's praise for the book supports decisions to keep it in the canon and the classroom, yet her disregard for her own observation on the "powerful experience" it is for Black students to read the book is striking.

C. Emotional Segregation and the Racial Dynamic

This background on the *Huckleberry Finn* debate also provides an opportunity to explore an overarching dynamic of racism—the accuser/accused racial dynamic. It is helpful to understand how the racial dynamic functions before attempting to develop a social or legal harm model for remedying emotional segregation because it is a significant barrier to healthy race relations. The racial dynamic functions as follows: White people of goodwill who are accused of being racist are shocked because they know in their hearts they would never hurt a Black person and the accusation is in direct opposition with their self-images as equality-minded people. Individual Whites respond to accusations of being racist in different ways, but most responses are emotional and include denial, anger, and a need to defend oneself by proving how wrong the accuser is. Whites' defensiveness, in turn, understandably frustrates and angers most Blacks who feel Whites' indifference to Blacks' persistent cries for equality is hypocritical. The racial

211. *Id.* at 5 (citations omitted).

dynamic inevitably creates an impasse between Whites and Blacks over the underlying disputed issue. For example, in the context of teaching *Huckleberry Finn*, Whites generally have succeeded in keeping the novel in the curriculum despite Black society's repeated claims that reading it hurts, offends, and angers their children.

White society's defensive response to Black parents' accusation in 1957 that the book is racist served to ensconce it even more in the canon of American literature. Significantly, that initial protest against teaching it in public schools and White society's immediate and swift reaction to defend it as a classic established the tone and manner in which the racial dynamic would play out with each successive attempt to dethrone the novel.

A significant attempt, ostensibly,²¹² to dethrone it came in 1982, when African American scholar and educator John Wallace argued that the book was "the most grotesque example of racist trash ever written."²¹³ Following is a list of some immediate responses to refute his claim:

Michael Patrick Hearn, editor of *The Annotated Huckleberry Finn*: 'The problem is the teaching, not the novel. . . . Should any class fail to discuss the humanity of Mark Twain's novel, then the school board should keep *Huckleberry Finn* and chuck the teacher.'²¹⁴

Editorial in the *New York Times*: "The problem of racism brought forward by John Wallace was evident 'on the surface' of the book in the usage of n____, but 'volumes have been written about the book's deeper significance.'²¹⁵

Editorial by Robert Nadeau in the *Washington Post*, entitled "*Huckleberry Finn* Is a Moral Story"²¹⁶

212. I say "ostensibly" because John Wallace proceeded to produce an edited version of the book in which the epithet was deleted and replaced with the word slave. This only prompted more criticism of Wallace and more defenses of the book. See *supra* Part II.B.1 and accompanying text.

213. Wallace, *supra* note 53, at 16. See also ARAC, *supra* note 4, at 67 (his view rested largely on the offensive language in the book, and by preparing a version of the book that ostensibly eliminated that problem, Wallace reintroduced it in the school's curriculum).

214. ARAC, *supra* note 4, at 68 (quoting Michael Patrick Hearn, *Expelling Huckleberry Finn*, NATION, Aug 7-14, 1982, at 117.)

215. *Id.* at 69 (quoting *Think Back, Too*, NEW YORK TIMES, Jan. 1, 1984, at editorial page.)

216. *Id.* at 70.

Papers such as the *New York Times* and *Washington Post* widely circulated these criticisms of Wallace throughout the country. Thus, Wallace's bold attack on the book caused many scholars, teachers, and parents, most of whom are White and who are persuaded the book deserves its lofty place in the canon, to zealously defend the book as an anti-racist classic as more and more Blacks, especially Black parents, protest its inclusion in public school curricula because it causes emotional segregation.

Increasingly, however, it becomes more and more obvious to Whites of goodwill who are developing a deeper understanding of racism that some of the defenses of the novel are absurd. Fishkin, for example, suggests that perhaps Huck was really Black.²¹⁷ Focusing on Fishkin's suggestion is worthwhile because it captures the importance to Whites of defending the book as an anti-racist classic, which automatically justifies teaching it in public schools even though it causes emotional segregation.

Fishkin's suggestion that Huck might be Black essentially derives from two observations. First, she observes that Huck's character is based on a literary mixture of two boys Twain met during his lifetime. One was Tom Blankenship, a poor White boy, and the other was a "bright, simple, guileless little darkey boy . . . ten years old—a wide-eyed, observant little chap."²¹⁸ Through an elaborate analysis of the science of dialects, Fishkin concludes that Twain had Huck use a dialect that reflected the dialect used by Blacks.²¹⁹ Fishkin's second observation also is elaborately detailed, but for purposes here, it reduces to her conclusion that Twain adopted African American styles of storytelling into the novel.²²⁰

It seems Fishkin is trying to establish that the "quintessentially American nature" of *Huckleberry Finn* has its roots in African American voices.²²¹ Fishkin implies that this is proof that the novel is not racist, but her claim implies far more: she implies that the novel is richly reflective of African American values and culture.

It is one thing to suggest that Twain was influenced by African American artists, and another to suggest that Huck is Black. The latter suggestion does not inevitably flow from the first, which

217. FISHKIN, *supra* note 72, at 9.

218. *Id.* at 13.

219. *Id.* at 15–16. Fishkin notes, however, "Twain's blending of black voices with white to create the voice we know as Huck's may well have been unconscious." *Id.*

220. *Id.* at 75 (Twain's use of satire may have been influenced by "the centuries-old African and African-American tradition of using satire to criticize the pretensions and foibles of white folks.").

221. *Id.* at 49.

seems to be what Fishkin wants readers of her book to seriously consider. It is impossible to seriously consider Huck as a Black person. His whiteness is essential to the novel regardless of whether one sees it as racist or anti-racist. If one views the novel as racist, making Huck Black literally adds insult to injury because it would be absurd to think a fugitive slave or a free Black person could move in and out of White society the way Huck does. There also is nothing in the novel to suggest that Huck was like Mr. Plessy—light skinned and passing as White, even though he was legally Black. It also would be morally indefensible to conscript a Black person into White society's subordination of *all* Blacks as represented by Jim. Finally, those who think the book is anti-racist *need* Huck to be White in order for him to have a moral awakening, the presumed crux of the story, and have him symbolically represent White anti-racism.

One is left to wonder why Fishkin, a serious literary critic and a White person of goodwill, would ask her readers to entertain such a contentious possibility? Even she did not consider the question to be a serious one; she thought it mostly rhetorically intriguing.²²² Her more credible claim, that Mark Twain was influenced by African American art, is worth reflection. Assuming this is true, it helps explain why some African Americans, including Ralph Ellison would find *something* redeeming in the novel. Ironically, Ellison's early praise for the novel because of "its power of confronting fundamental moral issues,"²²³ gradually faded as he became more critical of Twain's inability to portray Jim and African American slaves more accurately.²²⁴ Because Blacks cannot and should not be essentialized,²²⁵ it is not surprising that some Black scholars also find positive lessons to be learned from the novel.²²⁶ Clearly, even African American scholars present diverse views about the novel's value, but "a far greater proportion of them are critical

222. *Id.* at 105.

223. ARAC, *supra* note 4, at 198.

224. *Id.*

225. The scholarship on "anti-essentialism" is particularly developed by women of color. See, e.g., Angela P. Harris, *Race and Essentialism in Feminist Theory*, 42 STAN. L. REV. 581 (1990); Mari J. Matsuda, *When the First Quail Calls: Multiple Consciousness as Jurisprudential Method*, 11 WOMENS RTS. L. REP. 7 (1989).

226. See, e.g., essays by Richard K. Barksdale, Carmen Subryan and Charles H. Nichols in SATIRE OR EVASION? BLACK PERSPECTIVES ON HUCKLEBERRY FINN (James S. Leonard et al. eds., 1992). See also CHADWICK-JOSHUA, *supra* note 163, at 18 ("Twain . . . created Jim as one character to act in the novel as Huck's guide for enlightenment and inspiration).

of *Huck Finn*'s treatment of race than are white ones who deal with this question."²²⁷

Still, the racism in *Huckleberry Finn* is not negated by Twain's incorporation of or attempted incorporation of African American style into the story. Nor is it negated by the fact that some African American scholars find positive things to say about the book. More importantly, positive aspects of the book do not prevent it from causing emotional segregation in classrooms. At best, one can conclude that any influence African American artists had on Twain did not diminish the novel's racist underpinnings. It is worth highlighting that in the late 1800s, a White person's identity as a non-prejudiced person (someone who took a stand against slavery) could overshadow the person's identity as a prejudiced person (someone who nevertheless believed in the race precept).²²⁸ Thus, if Fishkin posed her question and offered her insights to support the claim that the book is anti-racist or to minimize the harm that comes from reading the book, she failed.

The effort many prominent writers and scholars like Fishkin exert to defend *Huckleberry Finn* as an anti-racist novel indicates that they are troubled, on some level, by the dissonance: How can they justify canonizing a book that emotionally segregates readers in the classroom? White society attempts to eliminate the dissonance and end the debate by attacking the claim the novel is racist, and Black society attempts to maximize the dissonance and end the debate by attacking the novel's status as an anti-racist classic that causes emotional segregation in classrooms.

IV. A SOCIAL HARM MODEL TO AVOID AND REMEDY EMOTIONAL SEGREGATION

"Ultimately, the status of *Huckleberry Finn* as a 'classic' may tell more about the nation than many Americans want to know."²²⁹

"If *Huckleberry Finn* were read and taught only for pleasure, there would be much less passion in defending its classroom role. The identification of a book not just with a nation, but with the *goodness* of the nation, makes the controversy so painful. Why can we not allow our *selves* to be better than our

227. MENSCH & MENSCH, *supra* note 3, at 15.

228. See *supra* Part I.

229. Kenny J. Williams, *supra* note 172, at 237.

masterpieces? Is it impossible to grant that we and our children may try to live by standards that Twain and his society could not yet imagine?"²³⁰

Many Whites think the most serious harm that comes from reading the book is having to cope with the epithet. From this view, name-calling, unlike sticks and stones, should not hurt anyone.²³¹ Children's intellectual and emotional abilities follow a natural progression and if students read the novel before they are mature enough to navigate its complexities, it can hurt as they relate. Some teachers translate this natural and unavoidable immaturity with a lack of intellectual ability. For example, an eleventh grade teacher "told his black students that they needed to transcend their initial emotional response to the [epithet] and achieve the proper distance to see Twain's larger purpose. That most African American students failed to do so, [the teacher] attributed to their lack of maturity as both students and individuals."²³² The teacher thought the students should be able to control their emotional reactions to *Huckleberry Finn*, which was an unrealistic and unfair expectation. Truth is, students are unavoidably hurt when they read the book prematurely. Eventually, students will mature emotionally and intellectually and there will be a time when they are ready and capable of studying *Huckleberry Finn*.²³³

Justice Harlan's observation in *Plessy* that Whites will always be the dominant race in this country is exemplified by White society's unwillingness to accept Black society's opinion about the harmful effects of including *Huckleberry Finn* in public middle and high-school mandatory curricula. How can Black society respond effectively to counter justifications for curricular inclusion of the novel when the justifications range from being arrogantly dismissive—Blacks are not capable readers—to being literarily absurd—Huck was really Black? The following response illustrates Blacks' frustration about White society's need to dominate the debate:

Huckleberry Finn is an American classic for no other reason than that it ridicules blacks to a greater extent than any other book given our children to read. The book and racism feed

230. ARAC, *supra* note 4, at 14 (emphasis in original).

231. See generally, Charles R. Lawrence III, *If He Hollers Let Him Go: Regulating Racist Speech on Campus*, 1990 DUKE L.J. 431.

232. ARAC, *supra* note 4, at 85–86 (quoting Peter Smagorinsky, *Standards in Practice Grades 9-12* 25, National Council of Teachers of English (1996)).

233. See Rush, *supra* note 11, at 577.

on each other and have withstood the test of time because many Americans insist on preserving our racist heritage.²³⁴

Whites of goodwill probably object to this statement but this essay demonstrates that it is a fair conclusion for Black society to reach.

Whites of goodwill are unable to give greater weight to the harm the book causes emotionally and intellectually immature students for two primary reasons. First, most Whites of goodwill do not understand the nature of the harm that is inflicted on students when they are required to read the book. Second, most Whites of goodwill interpret assertions that the book is racist as an accusation that they are too if they like the book. Parts II and III of this article attempted to shed some light on these misunderstandings. The work of social scientists and educators also are helpful to develop a social harm model, which can focus on three principles. First, Whites can become more comfortable talking about race and racism if they learn to drop their defenses, and understand how White privilege functions. Second, teachers can become the students of their students because teachers are learners too.²³⁵ Finally, teachers, parents, and students can team together to create multi-cultural curricula that promote educational equality in the classroom.

A. Dropping Defenses

I draw on my experiences with the book as a White mother of a Black child and offer an analogy that may be helpful to break the racial dynamic. I want to re-emphasize how hurtful and offensive it is to White people to be called racist because understanding this is key to understanding the accuser-accused racial dynamic. Whites have structured the discourse about race in America around the implicit understanding that if Blacks use the word racism, or call Whites racist, then Whites will walk away from the table. This defensiveness can be attributed, at least partially, to the reality that most Whites of goodwill limit the word racism to dramatic behavior, such as the acts of the Ku Klux Klan.²³⁶ Consider the following

234. Wallace, *supra* note 53, at 23.

235. See Lizette Roman, *Pedagogical Strategies as Magical Cures*, in *THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES* 83, 83 (Sonia Nieto ed., 1999).

236. See, e.g., Thomas Ross, *Innocence and Affirmative Action*, 43 VAND. L. REV. 297, 310-11 (1990) ("[T]he white intellectual, whether politically liberal or conservative, typically

statement of a young White college student. She had been asked to describe her "first experience with Black Americans:"²³⁷

'I switched from a private school which had no blacks to a public school, and I was thrown in the middle of a bunch of apes, no I'm just kidding. . . . And I don't know, my parents have always instilled in me that blacks aren't equal I don't consider myself racist. I, when I think of the word racist, I think of KKK, people in white robes burning black people on crosses and stuff, or I think of the Skinheads or some exaggerated form of racism.'²³⁸

Thus, simply being in a conversation where the word racism or racist is mentioned conjures up horrible images of the way *other* Whites treat Blacks.

If racism is defined more broadly to include a belief in the race precept, many White people become uncomfortable and defensive, because then behavior they engage in or could be engaging in without fully knowing it and without meaning to hurt Blacks could be *racist* behavior. When the college student quoted above refers to Blacks as "apes," she quickly says she is kidding and tries to take it back because she identifies as anti-racist. On some level of consciousness, though, she *knows* she believes in the race precept, as she says explicitly in her next comment. She tries to justify her statement by explaining that her parents taught her to think this way. However, her ambivalence is not about whether she believes in the race precept, she clearly does; rather, her ambivalence seems to be in trying to understand what counts as racism. This is similar to Justice Harlan's thinking in *Plessy*, Lincoln's thinking on the issue of abolishing slavery, Twain's thinking about Blacks, Huck's thinking about slavery, and by definition, the thinking of most Whites of goodwill about racial equality, particularly now that slavery and Jim Crow legally are gone.

Unlike the racial epithet, which is disrespectful and its use generally intended to strip Blacks of their humanity, the word racist is

expresses only disgust for the words and behavior of the white supremacists and neo-Nazis he connects with the label 'racist.' The dominant public ideology has become nonracist. Use of racial epithets, expressions of white genetic superiority, and avowal of formal segregation are not part of the mainstream of public discourse. These ways of speaking, which were part of the public discourse several decades ago, are deemed by most today as irrational utterances emanating from the few remaining pockets of racism.").

237. FEAGIN, *supra* note 8, at 124.

238. *Id.* (quoting Joe R. Feagin & Hernon Vera, WHITE RACISM: THE BASICS 160-61 (1995)).

not disrespectful and its use is not intended to strip Whites of their humanity. I am not saying it is not a hurtful word because it can be, particularly when it is directed at an individual.²³⁹ Individual incidents of racist behavior should be resolved, of course, but racism also is a word that describes a serious social and legal problem that transcends the individual. From Blacks' perspective, the elimination of racism depends on eliminating racism as an institution. Categorizing *Huckleberry Finn* as an anti-racist classic and requiring it in public school curricula is a form of institutional racism.²⁴⁰ Jane Smiley characterizes the misunderstanding between Whites and Blacks about the word racism by suggesting "'white Americans always think racism is a feeling,' but racism is better understood by 'black Americans' as 'a way of structuring' American culture, politics, and economics."²⁴¹

Both individual and institutional acts of racial harm constitute the larger problem of racism, an injustice Blacks and Whites of goodwill both want to address and remedy. Accordingly, Whites should be open to accepting how hurtful and offensive it is for Blacks to hear or read the racial epithet because Whites know how hurtful it is to hear the word "racist" describe the book. Their offense at Blacks' description of the book is so deep that Whites exert enormous effort to prove the book is anti-racist. Yet White society thinks Blacks should be able to read *Huckleberry Finn* without getting upset about the epithet (or the book as a whole).

Most importantly, the inability and unwillingness of certain Whites to accept the word racism and confront what it means is not in keeping with their expressed commitment to racial equality. How is the problem of racism supposed to be defined if not by use of the word? Moreover, Justice Harlan, a White person of goodwill like most Whites today, unconsciously supported the race precept while he simultaneously decried *de jure* segregation. During Twain's and Harlan's era, however, the language to describe the concept of unconscious or unintentional racism did not exist in ways that it does today. Fortunately, Americans, particularly those of color, have found ways to articulate and describe what unconscious racism is

239. See, e.g., Stephanie M. Wildman & Adrienne D. Davis, *Language and Silence: Making Systems of Privilege Visible*, in CRITICAL RACE THEORY: THE CUTTING EDGE 573 (Richard Delgado ed. 1995) ("calling someone racist individualizes the behavior, ignoring the larger system within which the person is situated").

240. *Id.* at 31.

241. ARAC, *supra* note 4, at 87 (quoting Jane Smiley, *Say It Ain't So, Huck*, HARPER'S, Jan. 1996, at 61-67).

and how it functions. Professor Charles Lawrence is a noted pioneer on this issue:

Americans share a common historical and cultural heritage in which racism has played and still plays a dominant role. Because of this shared experience, we also inevitably share many ideas, attitudes, and beliefs that attach significance to an individual's race and induce negative feelings and opinions about nonwhites. To the extent that this cultural belief system has influenced all of us, we are all racists. At the same time, most of us are unaware of our racism. We do not recognize the ways in which our cultural experience has influenced our beliefs about race or the occasions on which those beliefs affect our actions. In other words, a large part of the behavior that produces racial discrimination is influenced by unconscious racial motivation.²⁴²

In this way, Whites of goodwill who drop their defenses and engage in meaningful discourse with Blacks can apply this new language to prior and current events to understand how racism has functioned and continues to function to promote and maintain racial inequality even by people who *feel* goodwill toward Blacks.

In addition to learning about unconscious racism and accepting the valid use of the word racism, perhaps another place to move beyond the racial dynamic is for Whites to confront their identity.²⁴³ For example, White students in my constitutional law class are uncomfortable talking about race and some seem defensive about being White.²⁴⁴ Moreover, social science literature reports that some Whites feel guilty about being White.²⁴⁵ Some try to distance themselves from the problem of racism by expressing their innocence because their families never owned slaves. The White students who share these sentiments with the class are letting their classmates know that they think slavery was wrong and that they are not racist because they had nothing to do with it. They do not want to be perceived as "bad" people who hurt Blacks. Who can blame

242. Lawrence, *supra* note 198, at 322.

243. See SONIA NIETO, *THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES* 132 (1999).

244. See, e.g., Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 CAL. L. REV. 1512 (1991).

245. See, e.g., Beverly Daniel Tatum, *Teaching White Students about Racism: The Search for White Allies and the Restoration of Hope*, 95 TEACHERS COLLEGE RECORD 462-63 (1994) ("White students, in particular, often struggle with strong feelings of guilt when they become aware of the pervasiveness of racism in our society.").

them, because they are not “bad” people and would not intentionally hurt Blacks.

On the other hand, Black students express that when they hear Whites distance themselves from historical racism, they hear denial that historical racism is connected to modern racism and persistent racial inequality. When White classmates fail to make the connection between historical and modern racism, Black classmates hear this defensive message: “We (Whites of today) did not benefit from the institution of slavery and are not currently ‘stamping Blacks with a badge of inferiority.’ Therefore, we are not racists and have no responsibility to help create racial equality.”

Critically important, Whites miss the connection between their Whiteness and their privileged status in society. One of my Black students argued that he accepted that his White classmates’ families were not slave owners, but also pointed out that he is not currently a slave either. Yet he and all Blacks continue to suffer from the harm that slavery inflicted on Blacks as a race, because the institution of slavery established a negative “way of thinking” about Blacks that persists. Correspondingly, he explained, the institution of slavery established Whites as the superior and privileged race and this “way of thinking” about Whites persists.

Confronting Whiteness involves understanding how whiteness privileges White people. Here I return to two aspects of *Plessy*. Mr. Plessy wanted to be White because then he could enjoy all the privileges Whites enjoyed under *de jure* segregation. Notice he did not object to *de jure* segregation; he objected to being defined as a Black man.²⁴⁶ Recall also that Justice Harlan’s statement that Whites will always be the dominant race in this country could be interpreted to mean that Whites are so far ahead of Blacks in social, political, educational, and legal standing that Blacks cannot catch up to them. If this is what Harlan meant, it can be stated alternatively: by their own design and through the institution of slavery, Whites privileged themselves at the expense of Blacks’ very humanity. While Whites of today do not own slaves, nevertheless, generation after generation of Whites continue to enjoy the privilege of Whiteness that gave their ancestors a significant 200 year head start.²⁴⁷

This is difficult for most Whites to understand or accept. Professor Joe Feagin describes it thusly:

246. Harris, *supra* note 36, at 1747–48.

247. HARDING, *supra* note 28, at 7.

Perhaps most amazing is that a majority of whites today do not see the centuries of slavery and segregation as bringing whites substantial socioeconomic benefit. One survey found that nearly two-thirds of white respondents did *not* think that whites as a group had benefitted from past and present discrimination against black Americans. Nor did they think whites should take significant action to remedy continuing discrimination.²⁴⁸

The important point: if guilt plays a role in making Whites defensive, and it also discourages them from talking about race (either because they feel guilty and do not know what to do about the problem *or* because they do not feel guilty and do not want to do anything about it), then Whites committed to equality should be willing to reflect on ways to move beyond the issue of guilt or fault—move beyond the *Plessy* and Jim Crow mentality.

For example, instead of being the “guilty White,” Professor Beverly Tatum offers an alternative. She suggests that Whites can assume the identity of “‘White ally,’ the actively anti-racist White person who is intentional in his or her ongoing efforts to interrupt the cycle of racism.”²⁴⁹ No one should have to apologize for their racial identity. Indeed, racial identity is something each person should be proud of, consistent with the fundamental democratic principle that no individual is superior or inferior to any other person because of race.

In the classroom, White teachers who accept and love themselves as White people are better equipped to help their students also love their own racial identities and the identities of each other.²⁵⁰ Lessons and academic exercises should “encourag[e] students to become confident, active, and critical thinkers who learn to think about their background experiences as important tools for further learning.”²⁵¹ Classroom environments that include such curricula lead to “cognitive empowerment” of students.²⁵²

Moving beyond issues of guilt and fault, however, does not mean ignoring the reality that whiteness carries with it a privileged status

248. FEAGIN, *supra* note 8, at 129 (footnote omitted) (emphasis in original).

249. Beverly Daniel Tatum, *Lighting Candles in the Dark: One Black Woman's Response to White Anti-racist Narratives*, in BECOMING AND UNBECOMING WHITE: OWNING AND DISOWNING A RACIAL IDENTITY 56, 61 (Christine Clark & James O'Donnell eds., 1999).

250. See Patty Bode, *On Becoming a White Ally*, in THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES 139, 139–40 (Sonia Nieto ed., 1999).

251. Patty Bode, *A Letter from Kaeli*, in THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES 125, 127 (Sonia Nieto ed., 1999).

252. *Id.*

in society. White allies consciously reject the inferiority half of the race precept, and now they must confront the role White privilege plays in promoting the superiority half of the precept (which is to support the entire precept). White teachers who learn to confront their whiteness develop a deeper understanding of the privileges associated with being White and this makes them more attuned to the dynamics of racism.²⁵³ Critically important, teachers who are committed to racial equality and who understand White privilege are more likely to avoid unconsciously promoting the race precept. In the context of *Huckleberry Finn*, an understanding of White privilege would enable White teachers to see how reading the book privileges White students at the expense of Black students because White students are not emotionally assaulted by the book, but Blacks students are emotionally segregated in the classroom when the book is required reading. Moreover, teachers do not jeopardize the respect and trust in their relationships with their White students by assigning *Huckleberry Finn* because teachers usually teach the book as an anti-racist classic and this makes Whites feel good about the book and themselves. Only Black students and White students who are sensitive to race issues feel disrespected and betrayed by their teachers when their class reads the book.

If teachers of goodwill can understand how the book privileges White students, then they will choose to exclude the book from a mandatory curriculum. This is a social harm model that will avoid or remedy emotional segregation. By definition, Whites of goodwill do not intentionally hurt Blacks. Excluding the book from public middle and high-schools and waiting for students to mature emotionally and intellectually before they read the book (if they so choose) also breaks the racial dynamic as it functions in the *Huckleberry Finn* debate.

B. Teachers as Learners

Because teaching is a political commitment,²⁵⁴ and because White teachers are members of the politically privileged group in society, they have enormous influence over students. A poignant example follows: “[A] White teacher who, in a videotape of her teaching, was found to wash her hands after every time she

253. Wildman & Davis, *supra* note 239.

254. See NIETO, *supra* note 243, at 131.

touched a Black child. In this case, no matter what this teacher might say, her negative beliefs were communicated unequivocally to her young students."²⁵⁵

Given the impact subtle messages have on students, imagine how much to heart students take the overt lessons teachers present to them. Teachers undoubtedly know they influence their students and accordingly, teachers can and should use their platforms to empower their students. This is a huge responsibility, and although seemingly straight-forward, it is actually multifaceted.

In their classic roles, teachers impart knowledge to students. Typically, they are not seen as persons who also can and should learn from classroom experiences. From a different perspective, however, teachers can and should be learners, too. "Defining the teacher as a learner is a radical departure from the prevailing notion of the educator as repository of all knowledge, a view that is firmly entrenched in society."²⁵⁶ For example, the teacher in the video mentioned above may not have been aware that she washed her hands after touching a Black child, but when shown the video, one hopes she learned something about herself and something about how racism functions. Moreover, it is difficult to imagine that she would continue to engage in the conduct (in front of her students, at least) knowing she was teaching her students that the race precept is valid. By all social and educational standards of good teaching in public schools, a good teacher does not teach the validity of the race precept. But it is important to note that she had to be open to learning that she was sending negative messages to her students.

A radical departure from the lesson plan with respect to *Huckleberry Finn* is a potentially effective way to promote "socio-cultural mediation"²⁵⁷ and break the racial dynamic as it functions in the debate. Toward this goal, White teachers can actively engage in learning about their students and their students' cultures, backgrounds, and interests. One of the best ways to do this is to *listen* to students.²⁵⁸ Consider the story of Mungu, telling his mother how he felt reading *Huckleberry Finn* in junior high school class:

255. David Ruiz, *Being on the Winning Team*, in *THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES* 141, 143 (Sonia Nieto ed., 1999).

256. Lizette Roman, *Cultural Knowledge and Culturally Responsive Pedagogy*, in *THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES* 144, 144 (Sonia Nieto ed., 1999).

257. See Ann Scott, *Differences Matter*, in *THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES* 114, 115 (Sonia Nieto ed., 1999).

258. See Tom Hidalgo, *Reaction to the Article*, in *THE LIGHT IN THEIR EYES: CREATING MULTICULTURAL LEARNING COMMUNITIES* at 122, 123 (Sonia Nieto ed., 1999).

'I feel that Jim is not a human being,' . . . adding that Jim was there only to serve whites. At his mother's suggestion, Mungu took the matter up with his teacher, who replied that 'a lot of Blacks were not intelligent at the time the book was written, and they were too ignorant to understand how they were being treated.' Mungu answered, 'Blacks were powerless, not unintelligent.'²⁵⁹

Mungu's objections to reading *Huckleberry Finn* helped his teacher understand the difference between being "ignorant" and lacking power.

If more White teachers listened to their students' expressed hurt, chagrin, disappointment, and even anger at being assigned *Huckleberry Finn*, teachers who are learners would not dismiss their students' viewpoints. One teacher remarked that she "had no idea how ugly [the racial epithet] sounds read aloud nor the charged atmosphere that results from it. Listening to black students tell [her] first hand how it made them feel is what changed [her] mind."²⁶⁰ Hearing what students say about the book allows teachers to understand better why students and parents think the book is racist. Blacks who oppose *Huckleberry Finn* are teaching Whites important lessons about racism, race, and race relations. Their goal is to stop emotional segregation in the classrooms. Blacks' efforts provide an opportunity for Whites to learn lessons about how they can contribute to healthier race relations.

C. Education as Teamwork

Students and parents trust and expect teachers to guide their children through the school year with loving concern about their academic and social development. Teachers promise students and parents that at the end of the school year students will be more enlightened, academically stronger, more mature, and psychologically and emotionally more knowledgeable and secure about themselves and their places in the world. But teachers cannot do this alone. It takes teamwork. Significantly, teamwork education is premised on respect, trust, and empathy—three missing components in

259. MENSCH & MENSCH, *supra* note 3, at 108.

260. *Id.* at 111 (footnote omitted).

Huck and Jim's relationship, but which are essential to authentic relationships.

Each classroom should be seen as a "a learning community."²⁶¹ Classrooms are not like the railroad cars in *Plessy* that served only to carry passengers from one place to the next. Learning is not about "traveling" from one grade to the next either. Rather, classrooms do more than carry children on academic daily journeys; they are environments defined by all different kinds of love: a teacher's love for his or her students, students love for their teacher, and love for teaching and learning.²⁶²

All voices interested in education can and should help create a loving educational environment. To maximize students' and teachers' opportunities to teach and learn, the viewpoints of teachers, parents, and students²⁶³ should be considered because this is the only way to avoid creating lesson plans that will emotionally segregate some students from others. Stated alternatively, by working as a team, teachers, parents and students can actively create an emotionally integrated environment premised on the democratic principle that no one is superior or inferior to any other person because of race. Racial equality in the classroom is a fundamental component of a loving environment.

Unlike the situation with Jim, whose freedom came almost by happenstance and not by anything Jim controlled, educational teams can control their academic environments. An educational team's active decision to exclude *Huckleberry Finn* from a public school curriculum in which students emotionally and intellectually are too immature to read the book is consistent with this goal. Even if teachers personally think the novel is anti-racist and should be a classic, they nevertheless will avoid creating emotional segregation in

261. Roman, *supra* note 235, at 84.

262. A number of scholars explore the role of theology and love in achieving racial equality. See, e.g., Wendy Brown Scott, *Transformative Desegregation: Liberating Hearts and Minds*, 2 J. GENDER RACE & JUST. 315, 322 (1999) ("I use Christian liberation theology to critique . . . and explore the possibility for transformative intellectual desegregation to move our society away from race-based privilege and subordination to embrace the equality of races and the academic validity of studying racialized experiences."). See generally ANTHONY E. COOK, *THE LEAST OF THESE: RACE, LAW AND RELIGION IN AMERICAN CULTURE* (1997); MICHAEL J. PERRY, *LOVE AND POWER: THE ROLE OF RELIGION AND MORALITY IN AMERICAN POLITICS* (1991). I also think racial equality will be achieved when Whites develop "transformative love" and create a "spiritual revolution." See SHARON E. RUSH, *LOVING ACROSS THE COLOR LINE: A WHITE ADOPTIVE MOTHER LEARNS ABOUT RACE* 168-74 (2000).

263. See, e.g., Anne L. Bower, *Sharing Responsibility for American Lit: "A Spectacular and Dangerous World of Choice,"* in *CANON IN THE CLASSROOM*, *supra* note 158, at 221 (describing the importance of including students' participation in creating the curriculum).

the classroom by working as a team with parents and students who think otherwise and who do not want to include the book.

A social harm model structured around Whites being less defensive about race issues, teachers becoming learners of their students, and communities working together as education teams can avoid emotional segregation in classrooms. This model also can end the racial dynamic as it functions in the *Huckleberry Finn* debate. These two results are enormously significant: millions of students avoid the pain that comes with the novel, and millions of adults and children engage in healthier race relations. While this social harm model offers hope to end some emotional segregation in public schools, it also is important to begin the development of a legal harm model.

CONCLUSION

The concept of emotional segregation identifies a particular type of harm felt by a person when society sanctions others' disrespect of the person in violation of the democratic principle that all people are created equal. Emotional segregation can be seen as a form of incivility calling for a social remedy or as a legal harm calling for a legal remedy. Significantly, in the context of emotional segregation based on race, both social and legal inequality are traceable to *de jure* segregation. This history continues to define Blacks' and Whites' relationship even though Whites think slavery and *de jure* segregation are wrong.

White society's persistent belief in the inequality of Blacks is apparent in the emotional segregation in public school classrooms that is created when *Huckleberry Finn* is required reading. The hypercanonization of *Huckleberry Finn* reflects White society's need to hold fast to the novel as proof that America is anti-racist. When the book first appeared only a few years before *Plessy* was decided, one could have concluded that in some ways it defied White society's views about race, racism, and racial inequality. A White person had to do little to be thought of as an anti-racist in the days of *Plessy*, and Samuel Clemens might have fit within the narrow definition attached to being anti-racist because he questioned slavery. Moreover, prominent leaders like Justice Harlan and President Lincoln believed in the race precept even though they identified as anti-racist.

Today's Whites of goodwill understand that racism extends beyond owning slaves, the one thing that clearly made someone a racist in *Huckleberry Finn*. Today's Whites also understand that *de jure*

segregation and other outrageous intentional wrongs committed against Blacks fall within the definition of racism. Whites of goodwill struggle to understand institutional racism and individual subtle acts of racism. This failure to understand modern racism and how it relates to historical racism allows Whites (much like Twain), in good faith but erroneously, to identify as anti-racists.

Under a broader definition and deeper understanding of racism, an in-depth analysis of *Huckleberry Finn* reveals that it no longer serves to identify Twain or America as anti-racist. Indeed, to hold on to it for that purpose is to demonstrate a lack of understanding about racism, particularly how unconscious racism promotes the race precept. This lack of awareness, in turn, enables public school teachers to include the novel in the curriculum and think they can accurately teach anti-racism with it. In reality, it emotionally segregates students based on race.

This is not what teachers of goodwill intend. In fact, most teachers assign the book with the best of intentions and use it as a means to denounce slavery and racism. Although the repudiation of slavery and racism is a noble goal, trying to do it through *Huckleberry Finn* comes at the expense of all students' welfare. Black students who are forced to read the book because it is part of their curriculum are subjected to an emotional pain unique to their history and their current status in America. Critically important, Whites students who read the novel also "buy into" the message about the validity of the race precept and their feelings of superiority are reinforced by the novel. Before a teacher can positively influence students' development and teach them democratic values, teachers have an obligation to ensure that no students are left out of the educational experience for any reason. A social harm model suggests that if educational teams better understood how racism functions in the debate over *Huckleberry Finn*, they would voluntarily choose to stop teaching the novel to emotionally and intellectually immature students. Alternatively, teaching the validity of the race precept is inconsistent with *Brown* and its progeny and those cases form the basis for the development of a legal harm model to remedy emotional segregation. Under either model, the racial dynamic would be broken and we would be closer to achieving our goal of instilling all children with the fundamental democratic principle that no one is superior or inferior to any other person because of race.